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When Repatriation Doesn't Happen:
Relationships Created Through Cultural Property Negotiations

A Thesis
Presented to
the Faculty of the College of Arts, Humanities and Social Sciences
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by
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Abstract

This thesis analyzes the discourse of repatriation in connection to the *Encounters* exhibition held by the National Museum of Australia in 2015. Indigenous Australian and Torres Strait Islander artifacts were loaned to the Australian museum by the British Museum. At the close of the exhibition, one item, the Gweagal shield, was claimed for repatriation. The repatriation request had not been approved at the time of this research. The Gweagal shield is a historically significant artifact for Indigenous and non-Indigenous Australians. Analysis takes into account the political economy of the two museums and situates the exhibition within the relevant museum policies. This thesis argues that, while the shield has not yet returned to Australia, the discussions about what a return would mean are part of the larger process of repatriation. It is during these discussions that the rights to material culture are negotiated. Because many of the goals of repatriation are realized during throughout the process, the relationships built between museums and source communities are crucial. These relationships have the potential to support the preservation of Indigenous heritage beyond formal repatriation.

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Introduction

“Repatriation,” literally translated as back to the fatherland (Hafstein and Skrydstrup 2006, 40), was first used to describe expatriates and refugees returning to their home countries. It was a short enough conceptual leap to then apply the same word to the homecoming of human remains that had been unburied and removed from their community. This latter definition of repatriation was first used in a legal context in the National Museum of the American Indian Act 1989 and the subsequent Native American Graves Protection and Repatriation Act 1990 (Hafstein and Skrydstrup 2006, 40). It follows that significant cultural artifacts, items that are part of the constitution of a group identity, like a human community member, can be repatriated as well. Originating communities and their advocates also often use the terms restitution or reparation when calling for the return of material culture. These related terms emphasize some of the philosophical attributes of material culture return like healing, reconciliation, and the acknowledgement of historic injustices (Prott 2009, xxi-xxiv)

The Hauge Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954 (The Hauge Convention) first codified into law a growing post-war international concern over the protection of cultural property. Two decades later, the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (1970 Convention)

increased efforts to protect the material products of cultural heritage by requiring UN member states to make provisions in their domestic laws for cultural property restitution (United Nations Education Science and Cultural Organization 2017). These international conventions are between State parties. However, as it is museums which house large proportions of art, antiquities, and ethnographic material, and as publicly visible institutions, they are under the most scrutiny to abide by the ethics embedded in these and related policies (Ames 1992, 42).

While the current attention paid to repatriation in academia has been amplified by the reflexive and critical turn in anthropological disciplines (Fforde 2002; Kreps 2020, Peers and Brown 2003; Shelton 2013), awareness of disputes over artifacts have reached the public through coverage of high-profile cases in popular media. The British Museum's retention of the Elgin or Parthenon Marbles despite Greek calls for their return and the sale of Hopi Katsinam in French auction houses are examples of publicly well-known controversies. The topic of unethical collection from the colonial-era even made it into a scene of the 2018 Marvel studio's film *Black Panther*.

During the writing of this thesis, several news-worthy developments occurred which suggest an escalation in the push for the repatriation of colonial-era collections, which gives this research a sense of timeliness. In the fall of 2017, French President Emmanuel Macron announced that the French government would make the restitution of African heritage from French museums a priority over the next five years. Macron commissioned a report published in 2018, titled "Towards a New Relational Ethics," which laid out a path for the return of museum objects accumulated during the colonial

era. Shortly after the publication of this report, the President announced that 26 Benin bronzes would be returned to Africa. Previously, similar attempts had been rejected based on French law that decreed national collections to be inalienable. Along with the Benin bronzes announcement, Macron initiated a call for museums to look for African partners with whom to work towards returns and to establish an online inventory of African collections in museums that included comprehensive provenance research (Rea 2018). In 2019, Ahdaf Souief, a member of the British Museum Board of Trustees, resigned from her position. She cited the museum's "lack of public engagement with the restitution to Africa of colonial-era artifacts in the wake of" the above French report as one of the reasons that moved her to resign (Rea 2019). However, a New York Times article from January 2020 reported on the British Museum's agreement to send back Benin bronzes to Benin City. This "return" however, will be in the form of a long-term loan with the possibility of extension after three years. The article asks whether a loan is truly the most practical option for Benin City (Marshall 2020). In this thesis, I also examine a case where the British Museum loaned artifacts from their collection as a form of return. By analyzing a loan as a return, I aim to explore what can be accomplished outside the realm of physical and permanent transfer of control.

From November 2015 to March 2016, the National Museum of Australia hosted an exhibition entitled *Encounters: Revealing Stories of Aboriginal and Torres Strait Islander Objects from the British Museum* (National Museum of Australia 2020a) The National Museum of Australia (NMA) has had a unique relationship with Indigenous Australian communities compared to other institutions with longer legacies. This is

largely because the NMA was established in 1975. Theoretical changes occurred within anthropology and museums in Australia and internationally at the same time as the museum's inauguration (Morphy 2006, 469). In correspondence with these developments, the NMA has sought to have a collaborative relationship with Aboriginal communities. The museum established a devoted repatriation unit and Aboriginal Advisory Council, now referred to as the Indigenous Reference Group (IRG). Aboriginal access to and control over their material culture and heritage is a foundational policy of the museum (Museums Australia 2000, 1).

The British Museum, who loaned the material displayed in *Encounters*, has been promoted as a museum of universal heritage. For this reason, it has not been quick to deaccession objects from its collection in order to fulfill repatriation claims. The British Museum Act of 1963 allows for just 3 instances in which the Board of Trustees may deaccession an object without an act of Parliament (Pearson 2016, 210). As such, the Australian curators of *Encounters* were explicit with consulting individuals and communities that this exhibition was not about repatriation (Coates 2018). According to the lead curator of the exhibition, Dr. Ian Coates, it was about making people aware of where their material culture was, rebuilding a connection to that historic material culture, and building relationships between the museums and communities involved (Coates 2018). However, on the final day of the exhibition, a protest was planned by Aboriginal activists and a formal claim was made for the repatriation of one particular object (Neale 2018).

Mr. Rodney Kelly claimed, as a direct descendant of the original owner, the Eora bark shield, better known as the Gweagal shield, which had been one of the most powerful pieces chosen for display in *Encounters*. The Gweagal shield has been tied, for decades now, to the story of first contact between Indigenous Australians and Europeans. Upon landing at Botany Bay, Lieutenant James Cook and his men engaged in an aggressive invasion of Gweagal land, which resulted in one Aboriginal man being shot in the leg and a short-term retreat by the Gweagal people. Cook and Banks, the expedition's botanist, recorded that the Australian men the crew met on shore dropped three spears and a shield. Banks explicitly recorded gathering the spears and taking them back to the ship (Nugent 2008b, 198-199). These spears are currently held by Cambridge University, Trinity College. The men were less explicit about the collection of the shield but the example at the British Museum has been connected to this first encounter since its rediscovery in the museum's collection in 1978 (Trustees of the British Museum 2019).

This claim for the return of the Gweagal shield has garnered extensive media and academic attention. In both the UK and Australia, the shield is the topic of articles with titles such as "Aboriginal Man Demands British Museum Return 18th Century Shield Stolen From His Ancestor" (Shukla 2019), "250 Years On, Captain James Cook's Foes Want Their Shield Back" (Malvern 2018), "The Battle at the British Museum for a 'Stolen Shield' That Could Tell The Story of Captain Cook's Landing" (Brennan 2019), and after the publication of further material's research, "How the British Museum Changed Its Story About The Gweagal Shield" (Keenan 2018). In both academia and popular media, the shield is used as an example of the moral rights Indigenous people

have in making repatriation claims but it simultaneously brings attention to the complexities that exist in the repatriation process. Those complexities are compounded when a foreign institution is involved. Aboriginal people do not unanimously share a desire to have the shield returned to Australia. There are multiple views about the best ways to achieve repatriation and about the kinds of relationships that should exist between museums and the communities whose material culture is cared for in those museums. Individuals and groups understand the purpose of repatriation differently.

In addition to the different perspectives towards repatriation in general, the shield itself is a “sticky” object. Dr. Nugent and Dr. Sculthorpe borrow this term from Sara Ahmed in their article presenting the findings of research on the shield which took place after its exhibition in Australia (Nugent and Sculthorpe 2018, 30). By calling the shield sticky, they mean it is an object which draws attention, an object “to which ideas, values, and feelings, attach” (Nugent and Sculthorpe 2018, 30). In other words, it is significant to many people, sometimes for very different reasons. The return of the shield is complicated by questions about the provenance of the shield, asking whether it truly was collected by Cook in 1770. There is also limited precedence for the return of similarly significant items. Most repatriations to Australians, domestic and international, have been of human remains or sacred objects, of which the shield is neither. Although there is debate about whether its historic significance is a kind of sacredness. Finally, Mr. Kelly’s claim has also been critiqued as mere political posturing rather than being grounded in cultural authority.

This thesis considers the complexities of repatriation that exist because of multiple histories, perspectives, and goals amongst stakeholders, which in some instances can seem incompatible. The Gweagal shield's inclusion in the *Encounters* exhibition additionally highlights the general issue related to repatriation disputes, i.e. the way opposing standpoints of museums and Indigenous communities can be an obstacle to successful repatriation. Thus, as a case study of a repatriation that has been “unsuccessful” up to the time of writing, this thesis explores the following questions.

1. How do the histories of the British Museum and the NMA influence the principles and policies of repatriation currently at work and therefore influence the debate over the fate of the Gweagal shield?
2. What are the different ways that Aboriginal communities and museums understand the significance of material culture?
3. How can historic material culture be used in the cultural work of modern communities?
4. If a desired repatriation does not occur, can other kinds of relationships be built between museums and communities that achieve a similar goal, which in Australia is qualified as “reconciliation”?

To do so, I conducted in-person interviews with curators, researchers, and consultants involved with the development of *Encounters* and academics whose research has focused on repatriation in Australia. These interviews took place over three weeks in August 2018. Interview locations included university offices, the café and meeting spaces of the NMA, and the State Library of New South Wales café. While *Encounters* had been

closed for two and a half years at that point, by traveling to Australia, I had the opportunity to spend multiple days at the NMA and visit other cultural institutions in Canberra, Melbourne, and Sydney. Though these cities and other institutions were not a focus of study, I was able to gain a first-person sense of the visibility of Indigenous issues in three major Australian cities.

Analysis of these interviews suggests that repatriation is not the only means for achieving the goals associated with repatriation. Rather, finding a solution that tackles the desires of source communities and gives a museum a source of relevancy is only possible when there is room for flexibility, both in consideration of viewpoints and in actions. This, in fact, is not the direction I anticipated this project taking. As a non-Indigenous anthropology student, whose graduate education has focused on critical museology, I began this research a whole-hearted advocate for repatriation as reparation. This is not to say I no longer see repatriation as a way to heal wounds caused by the removal of material culture and related oppression of Indigenous practices. However, during the course of the interviews, I increasingly became aware that there are equally good reasons for repatriation not to happen and that the goals of repatriation are often born out during the process rather than in the outcome. I provide in this thesis a more complex and nuanced reading of the subject of repatriation to include these insights.

Chapter Summaries

Chapter 1 begins with the story of Lieutenant Cook and the H.M.S *Endeavour's* landing at Kamay Bay on April 29th, 1770 and the collection of the shield believed to be a

part of the British Museum collection and displayed in the *Encounters* exhibition. The chapter will then present a description of the *Encounters* exhibition's genesis, execution, and legacy, including a focus on the Gweagal shield's involvement in those events. Finally, the relevant policies of the British Museum and the NMA, contextualized within their respective institutional histories, will be addressed.

Chapter 2 furthers the discussion on material culture and heritage. It begins by placing anthropology within the history and practices of museums, both in the past and presently. This is followed by an examination of the concept of cultural property. The chapter then moves to look at international policy related to the return of said cultural property to source communities. Next, the concept of heritage is unpacked and used to understand how the material culture of the past is used by contemporary communities. Finally, the effects of repatriations are analyzed, including the relationship between returns and self-determination.

Chapter 3 then moves to develop the theoretical framework of this thesis and lay out the research design of this project. The design of this research and analysis of the findings were informed by readings of William Roseberry's works on Political Economy, material culture theories, and the application of James Clifford's concept of museums as contact zones to the objects in museums. This chapter reiterates the research goals and questions of the project. Site and participant selection are explained, as are the guiding methodologies. The methods for data collection and data analysis are detailed. The chapter then concludes with commentary on the ethical considerations taken and the limitations of the project scope.

Chapter 4 presents the findings of this research. Excerpts from interviews are organized and presented as answers to research questions. A discussion of the common themes from the findings chapter follows in Chapter 5. This final chapter summarizes this analysis in relation to the project research questions and concludes with thoughts on possible future research.

A Note on Language

In this paper, the term material culture does not encompass human remains. While disagreements over the proper disposition of artifacts, human-made or naturally occurring, exist, there is a greater consensus among Indigenous Australians that all ancestral remains must be returned to country.

In Chapter 2, I refer to the Aboriginal Australian men who volleyed with Captain Cook and his men as Australian. This is in recognition that these men and the other people who lived throughout the continent were the first Australians and before that point in 1770, there was no need to distinguish between Indigenous Australian and otherwise. I refer to the Aboriginal people of Australia as Indigenous Australian to encompass Aboriginal Australians and Torres Strait Islanders.

Chapter One: Background

Captain Cook and the Collection of a Shield

On April 29, 1770, Lieutenant James Cook, commander of H.M.S. *Endeavour*, and his crew came ashore at Kamay Bay, today referred to as Botany Bay. This is the traditional land of the Gweagal and Bidjigal clans of the Dharawal Eora people. The bay is located approximately 37km south of Sydney, Australia. Though the men of the *Endeavour* stayed ashore for a total of eight days, the moments that remain the most symbolic to the Australian nation are those that happened immediately upon their transgression onto shore.

As recorded by Cook and Banks, from their ship, the men could see a group of Australian people on the sand. As the sailors in their landing boats approached, all but two of the group left the beach. The two remaining men stood their ground, shouting at the landing party for a reported 15 minutes. At this time, Cook fired two shots from his landing craft, the second of which hit one of the men in the leg. The wounded man retreated but returned moments later with a bark shield. During his absence, the members of the landing party made it onto the beach. The Australian men threw spears at the group of sailors, without injury, while the sailors continued to fire their muskets. After the brief volley, the Australian men dropped what they had and joined the others somewhere away from the beach (Nugent 2008b, 3).

Maria Nugent, in “The Encounter Between Captain Cook and Indigenous People at Botany Bay in 1770 Reconsidered,” analyzes the interactions between British and Australian in comparison to the common meeting protocols of Indigenous Australians. These are formalized and ritualized proceedings, “with elements of ceremonial preparedness for conflict, formal peacemaking, reciprocal exchange of gifts, and sometimes actual conflict and resolution of conflict” (Hallam 1983, quoted in Nugent 2008a, 201). Patterns of “avoidance, nonchalance, repulsion, [and] retreat” are common in Aboriginal meeting protocols and were repeated over the eight days of the *Endeavour’s* stay. The British men present at Kamay Bay and later tellers interpreted the Indigenous actions as a lack of engagement and therefore a lack of defense of the land. The same actions were likely understood as strong engagement from the perspective of the Australians. Their behavior may have been intended to start a relationship and quiet the potential for violence by asserting their rights to territory (Nugent 2008b). Cook and his men did not understand this and their dramatic encounter may have halted future meetings and made it impossible to “form some connections with the natives” (Cook, quoted in Nugent 2008b, 10).

After the Australian men left the beach, Joseph Banks, the botanist on board the *Endeavour*, picked up the spears left behind and investigated a shield. Banks recorded these events in his journal. While Banks is not explicit about bringing the shield back to the ship like he is with the spears, many perceive his mention of it as a record of its collection (Nugent and Sculthorpe 2018, 34). The shield in the British Museum’s collection was found unregistered in 1978 with traces of a 19th-century label on the back

written as CAP:COOK. It has been exhibited 5 times, in 1987 in the *Captain Cook* exhibition at Penhurst Place, in 2010 in the *British Museum History in 100 Objects* exhibition and the *History of the World in 100 Objects* exhibition, publication, and radio broadcast, and in 2015 in the *Enduring Civilizations* and *Encounters* exhibitions (British Museum Collection Database 2019). Each exhibition maintained the story which connected Cook to the shield.

When the shield returned to London following the closure of the *Encounters* exhibition, the La Perouse Land Council, the Aboriginal Land Council in the Sydney area, requested further research to be done on the provenance of the shield (Nugent and Sculthorpe 2018, 32). Even before the exhibitions, there was some suspicion that this may not have been the shield taken by Cook (Williams 2018, Morphy 2018). However, a shield was certainly among the objects the *Endeavour* brought back to London. In 1771, Frederick Miller created 108 etchings of objects in Banks' possession that had been collected during the voyage of the *Endeavor*. The shield in the British Museum collection and the shield depicted in the etching are not exact matches. The curve of the shield, position of the handle, and position of the hole do not line up. The locations of other artifacts depicted in the etchings are known and when compared to their relevant etchings, the detail is precise (Thomas 2018, 23). Additionally, testing has proven that the shield came from a red mangrove tree which is not found in the Sydney region but further north. Not enough is known about the trade of shields and the distances they would have traveled to say whether this fact disproves the origin of the shield (Thomas 2018, 23).

Wherever the shield in the British Museum came from, it is undoubtedly early, rare, and significant. Few pre-contact artifacts have survived the last 200 years (Thomas 2018, 10). The importance of shields comes from their conceptual links to land. They are made from local trees and are used to protect land and people on their country. Each group of people used characteristic designs to signify identity. Shields are like deeds to homes (Jones 2015, 74). The Gweagal shield has an additional layer of meaning. It is connected to the whole Australian continent because of its associations with Cook, colonialism, and dispossession. Dr. Shayne Williams, a Dharawal elder who consulted on the exhibition and participated in this research, reflected on this larger connection in the *Encounters* catalog.

That shield represents a whole history of this country...And I think the shield too represents all Aboriginal people because that very place where the shield was taken from is where the rest of Australia was annexed to the British.

What it reminds me of is Aboriginal resistance. And not just resistance back then, but resistance to the destruction of our culture right up until now...that we're continuing to resist the infringements and impacts and the decimation of our cultures and our identities. I feel it's going to be a great source of pride for a lot of Aboriginal people... (National Museum of Australia 2016, 50).

Regardless of the truth of the shields collection, it maintains a power to trigger memory of colonialism, resistance, pre-contact tradition, and even reconciliation (Nugent and Sculthorpe 2018, 30).

Encounters

Australian museum professionals and the British Museum have had a long relationship. Many curators employed at the NMA have worked or done research at the

British Museum and currently the Keeper of the Department of Africa, Oceania, and the Americas, Lissant Bolton, and Curator of Oceania, Gaye Sculthorpe, are Australian and Tasmanian respectively. In 2007, the British Museum began efforts to upload their digital database to the public website (Trustees of the British Museum 2019). Dr. Ian Coates, from the NMA, was also working on a project for the British Museum in 2007 to strengthen the online records the museum had on their Indigenous Australian collection. He wanted to connect the British collections to the British Museum's archival documents, to relate the objects in the collection to each other, and to relate them to a broader, global history. In his interview for this research, Dr. Coates suggested that it was this research that brought to light the significance of the British collection of Australian artifacts and how important it was to exhibit the material in both England and Australia (Coates 2018). Myles Russell-Cook described the subsequent exhibitions as

the publicly visible outcomes of a large intellectual undertaking aimed at facilitating an enduring relationship between Indigenous communities, Australian museums, and most importantly those collections held overseas by the British Crown in the British Museum- collections which up until now have been difficult to access (Russell-Cook 2016, 489).

Encounters was one of three related exhibitions. The others were held at the British Museum and in Albany, Australia. The British exhibition was entitled *Indigenous Australia: Enduring Civilization (Enduring Civilizations)*. This exhibition ran from April 23 to August 2, 2015, with the Australian exhibition following it in November. Dr. Ian Coates, Dr. Howard Morphy, Dr. John Carty, and Dr. Maria Nugent were the Australian researchers involved in producing the British exhibition. The Albany exhibit, *Yurlmun*, was not planned alongside *Enduring Civilizations* and *Encounters*. Instead, during

consultations for the latter exhibition, Yolgnu community members emphasized their desire to have objects from their history on country. Through negotiations directly with the British Museum and facilitated by the NMA, community members were able to curate their own exhibition (Edmundson 2018; Coates 2018). Objects were chosen separately for each exhibit but with some overlap. For example, the Gweagal shield and the Botany Bay spears were displayed at both *Enduring Civilizations* and *Encounters*. The curatorial teams were likewise unique. Dr. Ian Coates was the only person who worked on both *Enduring Civilizations* and *Encounters*.

Though the exhibitions were related and used some of the same items in their displays, the goals and audiences were quite different. The British manifestation had an admission fee and was therefore largely attended by a British audience. The international attendees tend not to visit these exhibitions in the same numbers as British visitors (Coates 2018). The exhibit's purpose was largely to contribute to the audience's awareness of history they may not have known by "really starting at a fundamental level" (Coates 2018). The curators of the British exhibit also desired to hold up Indigenous Australia as part of the pantheon of great human civilizations. The title of the exhibition and the two other temporary exhibitions open at the same time as *Enduring Civilizations*, on the civilizations of Greece and Rome, helped emphasize the idea (Morphy 2015c, 7; Coates 2018). As a visitor entered into the great central hall of the museum they would see three banners, Rome, Greece, and Australia. It was visually symbolic of the importance of 65,000 years of Australian history to the history of humankind (Coates 2018). On the other hand, the goals of *Encounters* were geared towards ideas about

access and reconnections. It was surmised that many people would not know what objects from their heritage were housed at the British Museum and many of the items had not been in Australia since their collection as long ago as 250 years. More attention was paid to connecting the returning material to local narratives and providing a space for Indigenous perspectives on the past (Morphy 2018, Coates 2018).

The *Encounters* exhibition catalog emphasizes the three types of encounters it hoped to illustrate. The first of the three were encounters between Aboriginal and Torres Strait Islanders and settlers. It was in these encounters that the displayed objects were collected and they represented “a range of cross-cultural communications, from exploitation and disempowerment to negotiation and reciprocity” (National Museum of Australia 2015, 18). The second were encounters, and reconnections, among the objects, their country, and contemporary Indigenous people (National Museum of Australia 2015, 18). These were highlighted by the inclusion of 138 contemporary works by Indigenous people which were done in conversation with the historic artifacts (Robinson 2017, 865). The third encounter was between visitors and the material culture displayed. This was intended to prompt visitors, Aboriginal and non-Aboriginal, to think about how they connect to the past and with one another (National Museum of Australia 2015, 18).

Dr. Ian Coates selected objects of interest from the collection in London, but final decisions on which would be displayed were not made until consultations with associated communities were undertaken. The fundamental question was always is it okay to use these objects in an exhibition? If the answer was affirmative, consultation continued regarding perspectives on the significance of those items to contemporary communities.

Many participants were also asked to speak about their feelings and opinions on these objects being at the British Museum and objects like them being in museums in general. The objects originated from a lengthy and diverse list of communities and the responses were equally varied (Pickering 2018). Throughout consultations, the museum representatives stressed that the exhibition could not be and was not about repatriation. The NMA did not control the objects and the British Museum's collection management policies greatly limit return. Still, those involved in the project felt it was worthwhile to connect material and people and that by working with the British Museum, they could demonstrate to them the reality of feeling towards the material in Australia (Coates 2018). Though repatriations then and there would not happen, an opportunity was created to assert cultural ownership based on historical connections and to build a relationship with the British Museum that might be mutually beneficial for the future (Coates 2018).

The Indigenous Reference Group (IRG), which had been originally established for *Encounters*, but has since lived on, assisted the museum in consultations. Representatives were chosen to reflect the diversity of the country and Mr. Peter Yu was selected to lead the group. With the IRG, the museum set in place a series of principles that would guide consultations, keeping in mind the need for flexibility. These would be formalized as the "Indigenous Cultural Rights and Engagement Policy." Based on these principles, communities were approached through what was deemed the most appropriate avenue. This could be through Native Title recognized bodies¹ or through organizations

¹ After the determination of Native Title in the court, "native title holders must establish a corporation called Prescribe Bodies Corporate" (Cawthorn 2018). These bodies manage and protect the rights and interests of native title holders (Cawthorn 2018).

that had been active and engaged in cultural heritage issues. Through these structures, the curators tapped into voices that included men, women, and children. Perspectives regarded as generally representative were chosen but with the caveat that they were not speaking for an entire community but as individuals through whom a community view might be expressed (Coates 2018).

In the last days of the exhibition, the “New Encounters” conference hosted speakers from Australia, Tasmania, Canada, the United States, the United Kingdom, New Zealand, Denmark, and Finland. The theme of the conference was “re-thinking relationships with colonial collections- questioning and confronting the legacies of colonialism in creative and unexpected ways” (National Museum of Australia 2020b). The NMA decided to host the conference in an attempt to unpack and address some of the issues which had come up during *Encounters*, in consultations, as visitors engaged with the material, and as different communities expressed their needs and desires (Edmundson 2018). Planners opened the conference to international participants so that regional variation could be examined and Indigenous stakeholders from around the world could be in conversation with each other and with the museum. People could see the struggles, methods, successes, and failures of others (Edmundson 2018).

Rodney Kelly and his sisters Leah Kelly and Faith Aldridge, on the day the exhibition closed, declared his official claim over the shield and request for its return based on his direct lineage from the Gweagal man who dropped the shield on the beach in 1770. In Mr. Kelly’s claim, the man’s name was Cooman and he was Mr. Kelly’s six times great-grandfather (Kelly 2015). He states that “according to [Dharawal] law, it is

culturally and spiritually imperative that artifacts from our country stay on our country” (Kelly 2015). The Australian law, The Protection of Cultural Objects on Loan Act 2013, passed in part because of the temporary retention after a loan of the Dja Dja Warrung Bark etchings in 2007, prevented the shield from staying in Australia longer than the length of the loan (Steele 2015). However, Mr. Kelly’s campaign has been supported by the New South Wales Legislative Council and the Australian Senate (Thomas 2018, 9).

One lasting outcome of *Encounters* has been the Encounters Fellowship. Starting in 2016, the program has annually sent six people to a partnering Australian or British museum for 12 weeks. The webpage describes the program as an opportunity to “work alongside museum, gallery, and cultural sector specialists, gaining behind-the-scenes experience in areas including collections research and preservation, exhibition planning, digital storytelling, educational programming, Indigenous design thinking, and project management”(National Museum of Australia 2020b). The fellowship has supported projects that include the development of a keeping place, the establishment of a language preservation program, and informing contemporary artwork by using historical designs (National Museum of Australia 2020b). The program came out of needs expressed by communities during consultation for *Encounters*. Those needs encompassed increased access to national and international museum collections, the building of networks between Indigenous communities and cultural institutions, the development of museum skills within communities, and furthering the understanding of how cultural institutions manage their collections (National Museum of Australia 2020b).

The British Museum

The British Museum was established in 1753. Sir Hans Sloane, a physician, naturalist, and antiquarian, bequeathed his collection to the British nation for its founding. Sloane's collection was intended to illustrate all of human knowledge and included artifacts such as medieval manuscripts, renaissance medals, paintings from China, botanic specimens from the West Indies, Native American artifacts and thousands of books (Wilson 1989, 13). When Parliament agreed to fund the housing and protection of the collection, three principals were held to be fundamental to the new British Museum. First, the museum would be curated by specialists, employed full-time. Secondly, access to the collections would be free. Thirdly, and most significant, was that the British Museum, through its trustees, would care for the collection in its entirety and in perpetuity (Wilson 1989, 14).

After the establishment of the museum, based on Sloane's collection, further donations amplified the breadth of the collection, including a large donation from Joseph Banks, the botanist on board the *Endeavour* and eventual Trustee on the museum's board (Wilson 1989, 14). The museum, as an active collecting institute also continues to purchase objects which they see as adding to its mission of presenting "as complete and integrated a picture as possible of the development of different but related cultures through the ages" (Wilson 1989, 115). The museum's opposition to repatriations is founded in the mission to hold collections in perpetuity and to present a complete picture of the heritage of humankind. The *Declaration on the Importance and Value of the*

Universal Museum, declared by the British Museum and several other Western encyclopedic museums in 2002, is similarly founded on these principles. This declaration will be discussed in further detail later in this paper.

In his book on the “purpose and politics” of the British Museum, former director David Wilson claims multiple reasons the museum, at least in 1989, had for being unable or unwilling to consider the return of cultural objects to countries of origin, calling these demands “unthinking, if understandable, [and] nationalistic” (Wilson 1989, 116). He claims that the museum does not “hide completely behind our Act of Parliament,” but “defend our retention on good philosophical grounds” (Wilson 1989, 115). Wilson is referring to the British Museum Act 1963. This act dictates in which instances the Board of Trustees can deaccession objects from the collection without a determination by Parliament. Section 5 of the act describes these instances.

(1) the trustees of the British museum may sell, exchange, give away or otherwise dispose of any object vested in them and comprised in their collections if-

A) the object is a duplicate of another object, or

B) the object appears to the Trustees to have been made not earlier than the year 1850, and substantially consists of printed matter of which a copy made by photography or a process akin to photography is held by the Trustees, or

C) in the opinion of the Trustees the object is unfit to be retained in the collections of the museums and can be disposed of without detriment to the interests of students:

Provided that where an object has become vested in the Trustees by virtue of a gift or bequest the powers conferred by this subsection shall not be exercisable as respects that object in a manner inconsistent with any condition attached to the gift or bequest

(2) the Trustees may destroy or otherwise dispose of any object vested in them and comprised in their collections if satisfied that it has become useless for the purposes of the Museum by reason of damage, physical deterioration or infestation of destructive organisms. (Quoted in Pearson 2016, 210-211)

However, in 2000, there was a joint statement between Tony Blair and John Howard, respective Prime Ministers of England and Australia, which declared their governments' commitment to increased efforts for the repatriation of Aboriginal ancestral remains from British institutions. Following this was the establishment of the Working Group on Human Remains under the Department of Culture, Media, and Sports, which published the *Palmer Report*, so titled after chairman Norman Palmer. The group undertook five research projects which informed the final report. These consisted of

information and other gains from retention of human remains; arguments for and circumstances favoring restitution or relocation; UK institutional treatment of contemporary human remains; alternatives to compelled physical relocation; and volume size and distribution of collections; measurements; resource implications (Palmer 2007, 7).

This report and Palmer, a lawyer of illicit trade in antiquities, likely influenced the Human Tissues Act 2004, which established that there was no legal barrier to museums deaccessioning human remains from their collections (Fforde 2018).

As mentioned above, the British Museum was a signatory of another declaration, published in 2002. In total, 18 large encyclopedic museums signed the *Declaration on the Importance and Value of the Universal Museum* (Universal Declaration). The first argument of the Universal Declaration is that the collections cannot be judged by current values because they were acquired at a different time.

We should, however, recognize that objects acquired in earlier times must be viewed in the light of different sensitivities and values, reflective of that earlier era. The objects and monumental works that were installed decades and even centuries ago in museums throughout Europe and America were acquired under conditions that are not comparable with current ones (Declaration in Prott 2009, 117).

Following this statement is the argument that the collections have been in the museums for such a length of time that they are now “part of the heritage of the nations which house them,” suggesting that over time and dislocation, an object can lose its connection to its originating community and instead have a greater connection to the society of its new host. The final argument is specifically against the repatriation of “objects that have belonged to museum collections for many years” (Declaration in Prott 2009, 117). The mission to serve “the people of every nation” through the fostering of “knowledge by a continuous process of reinterpretation,” in which each object contributes, would be critically hindered if forced to narrow the focus of their collections (Declaration in Prott 2009, 117).

The argument that universal museums serve not just the citizens of their host nations but the citizens of the globe was criticized by Neil Curtis in “A Continuous Process of Reinterpretation: The Challenge of the Universal and Rational Museums” (2013). He questioned their ability to address the needs of the people in the rest of the world to which Neil McGregor, then director of the British Museum, responded in “The Encyclopaedic Museum: Enlightenment Ideals, Contemporary Realities” (2013). McGregor states that the museum, in its endeavor to help create and serve the “citizen of the world,” being “a member of that international republic of letters which prized the shared pursuit of truth above national particularism,” has tried to share the narratives and understandings intrinsic to the objects in the collections by loaning those to places they had never been and by partnering with national museums in Africa and Asia (McGregor

2013, 57; Curtis 2013). It is these projects which make the British Museum collection truly universal, so argues McGregor (2013).

The National Museum of Australia

In stark comparison to the age of the British Museum, the National Museum of Australia's collection was established only forty years ago, with the passing of the National Museum of Australia Act 1980. Between the museum's initial proposal in 1975 and when it opened its doors in 2001, the relationships between museums and Indigenous peoples had been notably altered. The political climate at this point had a great impact on the foundational principles that defined the NMA's mission. Prior to the 1970s, Australia had continued to include Indigenous material culture under the umbrella of national Australian culture and protected it as such while quite literally not counting Indigenous people as part of the country (Vdorljak 2007, 221). Aboriginal Australians and Torres Strait Islanders were only given full Australian citizenship in 1967 (Anderson and Geismar 2013, 4). In the national narrative, via anthropology, Indigenous heritage was relegated to the distant past and as part of the natural environment, focusing on pre-contact histories (Byrne 2003). As a "mechanism of forgetfulness," this supported the myth of the colonial landscape as frontier, as though Native and non-native Australians had lived in two separate eras when in reality there was "intimate intermingling and interdependency" (Byrne 2003, 81). This ethos began to slowly change by the latter half of the 70s, initiated by the activism of Indigenous Australians.

In 1972, four Aboriginal activists set up the first Tent Embassy on the lawns of Parliament in Canberra, symbolizing their demand for a relationship with Australia

governed by international rather than domestic law (Vdorljak 2007, 230). The original Tent Embassy issued a list of demands that focused largely on land rights but subsequent protests maintained Indigenous sovereignty and self-determination as their goals (National Museum of Australia 2020c). In 1973, the Australian government began funding the Aboriginal Arts Board, which was made up of Indigenous Australians. Embedded in the Board's policies was the perception that Indigenous Australian culture was not restricted to the past, but that they were “living cultures.” The Australian Museum in Sydney, since the 1970s, had likewise begun to redevelop its relationship with Indigenous communities. The museum began employing and training Indigenous Australians in the museum field while the Board of Trustees enacted the Code of Acquisition of Cultural Property. This recognized that the communities whose cultural property was at the greatest risk of being illicitly traded did not receive the protections of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transport of Ownership of Cultural Property. Many “source States”, countries that export more cultural material than import it, were not protected because they had not or could not ratify the convention due to their continued occupation (Vdorljak 2007, 224-5). Additionally, the Australian Museum began robust negotiations for the return of cultural property to Australian former colonial holdings in the Pacific, particularly in Papua New Guinea (Vdorljak 2007, 253).

In 1984, the Australian government passed the Aboriginal and Torres Strait Islander Heritage Protection Act. Significantly, this act aims to protect areas and objects according to Aboriginal traditions, acknowledging Indigenous customary law

(Vdorljak 2007, 247). Formal requests for the return of land, ancestral remains, and cultural objects abound in the 1980s finally put enough pressure on the government and museums to formulate national policies. In 1993, the Australian government passed the Native Title Act, which acknowledged that the continent had not been in a state of *terra nullius* at the time of European occupation. This meant that Indigenous rights to land and the associated cultural rights, which had been considered extinguished, were still intact (AITSIS 2015). In the same year, the Council of Australian Museums Association published a statement of principles outlining museum relations with Indigenous Australians. This was titled “Previous Possessions, New Obligations”(PPNO) and included statements on the return of material culture to communities. The timing of these dual aspects of restitution signifies an institutional acknowledgement of the link between the “right of self-determination to the control of land and resources, and the return of cultural objects” (Vdorljak 207, 232).

Indigenous Australians and Torres Strait Islanders, museum professionals, government bodies, and professional associations collaborated on the principles included in PPNO (Museums Australia 2000). The final 13 principles were related to categories of self-determination, management and collections, access to collections and information, assistance to Indigenous Australian and Torres Strait Islander communities, employment and training, and policy formation (Museums Australia 2000). PPNO was reviewed and amended in 2005 and reinstated as “Continuous Cultures, Ongoing Responsibilities” (CCOR). The review found that PPNO had “contributed to a changed culture of practice” (Museums Australia 2005, 6). CCOR included additional principles on the recognition

of intellectual and cultural property rights, a broadened role of museum and gallery collections, technological advances, and local issues. It also included implementation measures (Museums Australia 2005). The NMA, established in the decade between PPNO and CCOR, was formed in conversation with these policies and consequently had a different relationship with Indigenous communities than older institutions from the onset.

In 1975, the proposal for the establishment of a national museum was included in the Report of the Committee of Inquiry on Museums and National Collections (Vdorljak 2007, 221). Collections were gradually acquired, starting in 1980. The majority of human remains were transferred to the museum from the Australian Institute of Anatomy when it was abolished in 1985. They are also the designated keeping place for unprovenanced Australian remains. The museum has repatriated remains and secret sacred objects at request since 1980 and in 2001, the same year physical gallery spaces were opened, a specialized repatriation team was established (Pickering and Gordon 2011).

The NMA has separate policies on its responsibilities towards human remains, secret sacred and private material, and cultural objects. These policies were first established in 1996. The human remain policy was revised in 2005 and 2009 and the secret sacred and cultural object policies were revised in 2006 and 2011 (National Museum of Australia 2011a,b,c). For human remains and secret sacred material, the museum will repatriate provenanced material unconditionally (National Museum of Australia 2001a,b). The policy on the return of cultural objects cites the 1970 Convention

and the 1995 Convention on Stolen or Illegally Exported Cultural Objects (UNIDROIT 1995)² as influencing the rationale for its establishment. Though Australia has not ratified UNIDROIT 1995, the museum's policy "reflect[s] and build[s] on current international thinking on the return of cultural objects" (National Museum of Australia 2011c, 4). The museum will consider repatriation requests under five circumstances: when a cultural object was 1) acquired without free and informed consent, 2) acquired in contravention to custom, 3) acquired through a person not legally or culturally authorized to dispense of the object, 4) acquired through an illegal act of war or aggression, 5) acquired through a process or history that makes it unfit for inclusion in the museum's collection (National Museum of Australia 2011c, 4).

While there is no longer a devoted repatriation unit, the museum continues to proactively seek to return ancestral remains and secret sacred objects and attach accurate provenance to the collections. In the first seven years, the repatriation unit returned more than 750 individuals and 400 secret sacred objects (Pickering and Gordon 2011). A substantial percent of these remains were repatriated from Edinburgh University. Many are still held by the NMA while ongoing provenance research is undertaken to ensure the remains are returned to the appropriate communities (Pickering 2018).

² The convention creates a private international law remedy for individuals to file a complaint that enlarges the definition of cultural property and imposes a requirement to return the object (National Museum of Australia 2011c, 4).

Chapter Two: Literature Review

Anthropology and Museums

Just as people and cultures are idiosyncratic to local environmental, political, intellectual, and economic histories, the institutional philosophies and practices of museums vary geographically and temporally (Shelton 2011, 64). While museums have been called “the institutional homeland of anthropology,” the link is not equally strong across all museums (Shelton 2011, 64). However, anthropological practice was influenced in part by the form and purpose of 19th-century ethnographic collections that were housed in Western metropolitan museums. Anthony Shelton divides the construction of museums into two waves which coincide with the accumulation of ethnographic collections. The first of these waves took place between 1849 and 1884; the second between 1890 and 1931. The former period, significantly, took place before the colonial divvying up of Africa. Shelton identifies museums built in the latter period as those most associated with “colonial ideologies, practices, and aspirations” (Shelton 2011, 65).

The assumption in the late 19th and early 20th-century that “primitive” races of the world would inevitably succumb to extinction was one cause for the uptick in ethnographic collecting. In Germany, this future was lamented for the harm it would do to the construction of a universal human history. German museum directors hoped to

account for human variability, even in the face of cultural extinctions, by building exhaustive collections of the world's material culture. German concepts of universal history "embraced an idealistic, universal conception of humanity that eschewed hierarchical classification and refused to privilege any one society over another" (Shelton 2011, 69). The German anthropologist Franz Boas would bring this intellectual tradition to his critiques of American anthropology and museums (Shelton 2011, 70). In Britain and the United States, universal history was founded on anthropological theories of cultural evolution. Shelton argues that the adoption of these theories into museum interpretations "provided an illustrative method by which external and internal colonial ideologies based on notions of tutelage over so-called inferior races could be legitimated" (Shelton 2011, 69). Domestic and foreign ethnocide became justifiable to make way for progressive and modern technologies and beliefs (Shelton 2011, 70). Representations of "primitive" material culture represented the producers as people from "cultures without momentum except for that benignly bestowed on them from without through the improving mission of the imperialist powers" (Bennet quoted in Kreps 2011a, 73). This ideology substantiated the "notion that certain territories and people require and beseech domination..." (Said quoted in Fforde 2002, 29).

Historically, museum anthropology referred to "the application of anthropological research methods, theories, and insights to the collection, documentation, study, care, representation, and safeguarding of people's tangible and intangible culture" (Kreps 2020, 5). University courses on museum studies focused on what Anthony Shelton calls "operational museology." He defines this as the "body of knowledge, rules of application,

procedural and ethical protocols, organizational structures and regulatory interdictions, and their products that constitute the field of practical museology” (Shelton 2013, quoted in Kreps 2020, 9). In the 1980s, some museum anthropologists began to turn their scholarly focus to museums themselves, parallel to the emergence of “postmodern, post-colonial, and Indigenous critiques of anthropology and museums” (Kreps 2020, 6).

Michael Ames published his seminal work, *Cannibal Tours and Glass Boxes*, in 1992. Building on the “new museology” from the 1980s. New museology had called for more inclusive, accessible, and socially relevant museums (Kreps 2020, 12). Ames argued that the critical study of museums, “as historically situated social institutions” (1992, 4) would be required for museums to be socially relevant and engaged (Kreps 2020, 6). A critical and reflexive museology highlights the way unequal power balances contributed to the formation of collections, how they were represented to and received by the public, and conceptualizes museums as both “authors and a space of terrain where social relations and contestations are played out” (2020, 7).

Critical museology’s subject of study is often operational museology (Kreps 2020, 9). Its emphasis on reflexivity urges anthropologists of museums and museum anthropologists to apply a critical lens to museum practices and processes so that they might become aware of the social and historical biases that influence their work (Ames 1992, Shelton 2013, Kreps 2020). The form and function of the recontextualization of artifacts in museums tells one just as much about the society the museum is situated in as it does about the group who created the artifact itself (Ames 1992, 46). By defining the “other,” “we implicitly define or reproduce its opposite” (Shelton 2013, 16), ourselves. A

critical awareness of these presuppositions is crucial to “develop[ing] fresh insights and innovations” (2013, 14).

Critical museology is grounded on the notion that museums institutionalize the “official patrimony” but possess agency in this. Museums that critically engage with their historic and contemporary association with colonialism and systems of inequality can divert energy to “projects of reconciliation and healing” (Shelton 2013, 13) and present a more democratic patrimony. Shelton argues that museum agency does not exist in a vacuum but elicits counter-agencies of “resistance, contestation, and counterprojects” (2013, 13).

The acknowledgement that museums are not neutral spaces has been influential in the conceptualization of museums as battlegrounds. They have transitioned from “temple” to “forum,” with the temple as the place where “victors rest” and the forum a place where discourse is subjected to “public judgement and to the test of time” (Cameron 1971, 69). The forum illustration adds concepts of social responsibility and equality of cultural opportunity to the equation (Cameron 1971) and many museums today have put service to the public above object curation in their mission statements. The call has come from theorists for museums to leave behind their identity as sites of worship and become one of “discourse and critical reflection that is committed to examining unsettling histories with sensitivity to all parties” (Marstine 2006, 5).

Museum anthropology, since the critical turn in museology, has committed to collaboration with “counteragents,” particularly “historically socioeconomically

disadvantaged and marginalized groups”(Kreps 2020, 10). Peers and Brown emphasize this in the introduction to the edited volume *Museums and Source Communities*.

At the core of these new perspectives is a commitment to an evolving relationship between a museum and a source community in which both parties are held to be equal and which involves the sharing of skills, knowledge and power to produce something of value to both parties. This is different from the traditional curatorial approach in which museum staff, on the basis of professional knowledge and authority, control exhibition content, storage facilities, and other museological functions (Peers and Brown 2003, 2).

Collaboration has focused on building relationships with disadvantaged and marginalized groups to “rectify troubled histories” of colonialism and imperialism that museums were implicated in (Kreps 2020, 49).

These new relationships have generated a renewed focus on the objects in museum collections. Museums have begun to acknowledge that people understand, value, and treat their belongings in diverse ways (Kreps 2003; Kreps 2020; Van Dyke 2015). The consideration of social relationships in material culture studies is essential to new ways (to museums) of thinking about objects (Kreps 2020, 42). Museum anthropology might study the ways objects were meaningful and how social relationships were oriented around them in their original contexts but also how objects, once part of a museum collection, are both made meaningful by social relationships and help to create meaningful relationships. This parallels Richard Handler’s definition of a museum; as “an institution in which social relationships are oriented in terms of a collection of objects which are made meaningful by those relationships” (1993, 33).

Cultural Property Rights

Western concepts of property and ownership are often used when addressing issues surrounding museum decisions to return or retain items in their collection (Curtis 2006). Lockean labor theories inform Western definitions of property that synonymize the relationships between objects and people with those between product and producer (Handler 1997; Anderson and Geisman 2013). Applying this concept of property to Indigenous belongings is often problematic because it does not incorporate the multiple ways Indigenous people relate to non-human subjects. Western property law neither creates space to legally recognize these alternative relationships nor does it include customary Indigenous law, which would better reflect those relationships. Some Indigenous rights activists and their non-Indigenous allies distrust a legal system that has historically been used to disempower Native peoples. It is difficult to see how “theories of property crucial for the colonial appropriation of territory and resources” could be utilized to return these same things (Anderson and Geisman 2013, 3). However, other advocates for Indigenous rights consider their exclusion from Western law a form of neocolonialism. When the protection of Indigenous heritage and civil liberties is regulated strictly within the confines of morality rather than in legal systems, Indigenous rights are perceived to be less valid and at the mercy of societal attitudes (Vdorljak 2006; Neale 2018). To better understand these complexities the concept of rights to cultural property first needs defining.

In Lockean theories of property, the right to property is a right to *exclusive use* of that property. For John Locke, this is born from a person’s exclusive rights to their own

body. From that body, the fruits of labor are produced, to which those rights extend. In a capitalist system, the fruit of one's labor is the wealth one accumulates and the products one purchases with capital. These become the property over which a person exercises exclusive rights. Over time, as a divide between labor and product grows, what defines a person is seen to be what they have rather than what they produce. This phenomenon is referred to as "possessive individualism," a term coined by C.B. Macpherson (Handler 1997; Welsh 1997; Anderson and Geisman 2013). This individualism can conceptually be extended to groups. Theories of culture which see group/society/community/nation etc. as bounded entities understand them as a single unit, as an individual. Their identity can be defined based on the cultural property in their possession (Handler 1997).

The term "cultural property" was first used to refer to objects taken from a place of origin during military conflicts. This has since been expanded to include items associated, through historic production and use, to cultural groups and items removed from national borders (Vdorljak 2006). Cultural property stands out as of such significance that its removal from a community or nation would leave the associated culture depleted of some dimension and thus diminished in strength of identity (Welsh 1997). The title of "cultural property" rather than simply "property," implies a kind of permanent ownership that transcends the object's movement through time and exchange networks (Welsh 1997). Hence, cultural property is understood to be inalienable (Attar, Aylwin, and Coombe 2009). The term conveys a sense of "collective entitlement" and "shared inheritance" and is one path people can take to portray the "material nature of identity" (Anderson and Geismar 2013, 1). This latter characteristic of cultural property,

its link with identity, deserves emphasis. Anderson and Geismar argue that the deep connection between property, self-determination, and sovereignty, make property rights, “by definition, human rights” (2013, 5).

The designation of something as “cultural property” in many ways contradicts the practices and world views of groups working towards repatriation (Welsh 1997). Yet, Indigenous people often find it a necessary expression to use, as “the power of western culture is such that Indigenous people have to deal with us on our terms” (Curtis 2006, 123; Coombe 1998, 242). Michael Brown sees this as a contradiction, arguing that advocates for Indigenous control of Indigenous material culture simultaneously disavow corporate capitalism and espouse a commodification logic of property and ownership (2003, 237). Anderson and Geismar argue that the invocation of cultural property in claims for return “offers a strategically powerful language for that claim as well as access into legal spaces where it reverberates” (2013, 11). In contrast, the language of heritage preservation denotes “safeguarding and preserving a ‘common and universal good’” (Anderson and Geismar 2013, 11). The contrast between the preservation of Indigenous belongings for the common good and the return of those belongings for the protection of Indigenous heritage will be examined later in this chapter.

Definitions of cultural property in this paper have so far been contingent on an essentialist perspective of culture (Welsh 1997, Brown 2003). In other words, for an object or place to be the cultural property of some group of people, that group must be defined as a cultural entity to the exclusion of other groups (Brown 2003). That is only possible if culture is thought of as a bounded entity. It also necessitates the understanding

of culture as a set of static traditions that have passed uninterrupted from past to present. For contemporary cultures claiming historic objects or traditional lands as their cultural property, this can set a near-impossible standard of proof that must be met in order to be acknowledged as the descendants of a historic culture.

The requirements of the U.S. 1990 Native American Graves Protection and Repatriation Act (NAGPRA) to demonstrate “cultural affiliation” before a repatriation claim can be made serve as an example of this kind of challenge. “Cultural affiliation” is defined in the act as the existence of “a reasonable relationship of shared group identity which can be traced historically or prehistorically between a present-day Indian Tribe or Native Hawaiian organization and an identifiable earlier group” (Native American Graves Protection and Repatriation Act 1990). For affiliation to be determined it must first be decided whether an object can confidently be said to be from an “identifiable” group. This might also be said to be a *definable* earlier group. Shared identity between the earlier group and the present-day group must then be proven based on 10 lines of evidence; i.e., geographical, kinship, biological, archaeological, anthropological, linguistic, folklore, oral tradition, historical evidence, or other information or expert opinion (Native American Graves Protection and Repatriation Act 1990). However, there are cases where that identifiable group may have had a social organization that encompassed several identities or situations where contemporary groups no longer hold the same religious beliefs as their ancestors. How shared does the identity need to be? At what point are cultures too different to be affiliated?

What is being asked for from Indigenous peoples is proof of cultural continuity which disregards the colonial policies of dislocation and assimilation and at the theoretical level ignores a well-accepted view that “culture is a permeable, fuzzy set of values and beliefs in a dynamic relationship with other cultures” (Welsh 1997, 13). This constructivist view, in contrast, recognizes relationships between communities and the changes over time that cultures must undergo to survive (Brown 2003). Still, critiques of the constructivist theory of culture and debates about the usefulness of the perspective for Indigenous peoples persist.

Culture and the significance of cultural property, in the constructivist view, are not static but dynamic. The meaning and value of things and places shift through time and with the emerging needs of people (Welsh 1997). The process of taking historic practices or ideas and reworking them to fit the present-day needs of people has been called “inventing tradition” by some anthropologists. Originally put forward as a postmodern critique of nationalism (Briggs 1996, 463), “invented tradition” is characterized as a set of practices that are accepted in varying degrees as behavioral rules or values because of an implied continuity with the past. They are responses to new and unique situations, as resistance or impetus for change, that reference the past as precedent so they can be presented as the natural law of history (Hobsbawm 2012, 1-2).

Coombe and Briggs both problematize this view of cultural practices. Though it is necessary to disavow unrealistic notions of authenticity, a constructivist theory of culture may appear to prevent “those who have suffered the crippling effects of colonization or domination to gain or regain a bearing” (quoted in Coombe 1998, 228). Coombe

illustrates this by citing the admonition of an African American interviewee who pointed out that “it is easy to give up identity when you’ve got one” (Coombe 1998, 228). After centuries of colonial occupation and persecution based on their traditional practices and identity and at a time when the acknowledgement of land rights and sovereignty are based on the demonstration of cultural continuity, Indigenous people are being told that identity founded in tradition is an invention of the present. The assertion that traditions strictly reflect the contexts and interests of the present destabilizes claims of cultural authority and authenticity. This weakens the arguments of those seeking to reinstate control over the representations of their identity. Their claim is perceived as nothing more than politics and the discourses of tradition are no longer useful to communities using them to defend cultural property claims (Brigs 1996, 462-463; Welsh 1997).

Michael Brown’s use of the constructivist theory of culture, and the questions it raises for him about the strength of arguments for the legal protections of heritage, highlight the issues Indigenous people might have with the promotion of such a view. Though he does state that seeing culture as a continuous process of recombination over time should not in the end compromise “the authenticity of Indigenous individuals or groups,” he goes on to use this understanding to describe the constitution of one group’s heritage as something “knotty” (Brown 2003, 222). He sees any attempt to define a group’s heritage as falsely delineating cultures (the essentialist approach) and “taking for granted that indigenous people are not part of any public other than their own, enclosed conceptual universe” (Brown 2003, 212).

This is not a critique unique to Brown. However, working from the “invented tradition” framework, Brown sees contemporary practices supposedly rooted in the past as “sincere [only] at the level of belief”(Brown 2003, 190). Legal intervention into heritage then tries to overlay belief with facts as required by the law. These do not always line up. He argues that this risks unrestrained privilege being given to unsubstantiated claims based on expressions of belief and feelings over all other considerations (Brown 2003). This implies that the beliefs of Indigenous peoples are not factual, they are merely invented, and therefore they cannot be proven to the standards of law. If this is true, what recourse can Indigenous peoples take for the protection of their rights over intangible culture and even the tangible when they “cannot easily be treated as individuated and thing like” (Handler 1997, 4)?

Though the use of the invented tradition framework has been problematized, Brown’s argument does bring up the question of whether Western law can be appropriately applied to Indigenous rights, a question shared by others who might not agree with other aspects of his argument (Coombe 1998; Handler 1997; Welsh 1997; Tsosie 1997). Coombe largely sees the Western legal system as ill-equipped to deal with rights cases for peoples with worldviews and values it had assumed would one day disappear, either through assimilation or extinction (Coombe 1998). It seems paradoxical to continue to rely on concepts inherited from a colonial-era when trying to work out the challenges of postcolonial issues (Coombe 1998; Tsosie 1997). Welsh posits that the alternative lies in assessing the desire of possession not from the point of origin of rights but by looking at the consequence of loss (Welsh 1997; Tsosie 1997). Handler and

Coombe both see the solution as something more creative and inclusive, a system that encompasses the nuanced relationships between person, community, land, and object (Handler; Coombe 1998).

Another solution may lie in Indigenous customary law (Coombe 1998; Brown 2003). Anderson and Geismar assert that an anthropological focus should be assumed for the production of new laws because it “insists that we pay attention to the politics and the differences between local and global definitions of cultural property as well as local understandings of ownership and entitlements to culture” (2013). The strength of customary law’s ability to tackle the complex issues of cultural property is based on the understanding that “Indigenous rights are interrelated and indivisible” (Attar, Aylwin, and Coombe 2009, 317). Just as Western cultural property laws impose fictitious borders around cultures, they also set various rights to land, property, health, religion, etc. apart from each other. However, these are often seen as interrelated and the relevant protection laws may be rejected for their piecemeal approach (Brown 2003). Australian customary law demonstrates one way that spiritual belief, community relationships, and economy are not easily separated into individual subjects and why the definitions of property and ownership used to this point inadequately describe the Aboriginal system of possession (Palmer 2007). Land is central to Aboriginal cultural practices as “all cultural knowledge is mediated by the land: socio-spatial organization; personal and collective history and identity; economic life; spirituality and moral order” (Strang 1997, 200). Rights to land extend to all that is connected to that land because they are indivisible.

In Australian Aboriginal systems of law, when a person “owns” land, they do not own the physical space but are entitled to the use of that land and the control of certain esoteric knowledge associated the physical landscape, immunity from encroachments on one’s use rights, and the exercise of certain privileges (Strang 1997, 259). In contrast to Western concepts of ownership, these are not exclusive rights and other people may have a different set of rights to the same land so that “land may be subject to a cluster of rights held by different persons in terms of their relationship within the network of kinship ties” (Australian National University 2020). Additionally, there are rules to the way rights may be exercised and often entail obligations to others (Strang 1997).

The concepts of obligation and responsibility contrast Indigenous Australian and Western property law. Under customary law, responsibility is to the land and those who share rights to that land, including future generations (Strang 1997; Tsosie 1997). Australians are obliged to preserve the land, to maintain it the way the ancestors left it, in many ways as an estate held in trust. Many have expressed discomfort over land becoming unhealthy and dirty when they are no longer permitted to care for it through traditional means (Strang 1997, 89-93). By preserving land, which acts as a mnemonic device, stimulating stories and songs integral to cultural education, Australians are preserving their culture for the next generation who will inherit rights and obligations to that same land (Neale 2018).

Customary law is seen as one alternative to the incompatibility between property law and the deeper goals of cultural property restitution. Michael Brown argues however that debates over cultural property and cultural heritage should not be framed in rights at

all (2003). Brown sees rights-based arguments as limiting, both because each party will have rights at stake and because rights have a sense of finality about them, shutting down fruitful debate and negotiations (2003). However, reminiscent of the above quote, that “it is easier to give up identity when you have one,” it is likewise easier to critique the concept of rights when you have them. Some advocates of cultural property restitution thus find the endorsement of moral rights over legal rights damaging to their goals (Vdorljak 2006). Definitions of moral behavior have a certain mutability and are shaped “in the eye of the vested-interest holder” (Pickering and Gordon 2011).

Rather than rely on “the benevolence of States to ensure the establishment and implementation of...frameworks to protect, preserve and develop their cultures” some Indigenous people looked to the international framework of human rights to secure their cultural rights (Vdorljak 2006, 271). Three documents were crucial to the cementing of the protection of Indigenous cultural rights as human rights; the Study of the Problem of Discrimination Against Indigenous Populations 1983 (Cobo Study), the United Nations Declaration on the Rights of Indigenous Peoples 2007 (UNDRIP), and the Report on the Protection of the Heritage of Indigenous People 1995. The Cobo Study was undertaken by Special Rapporteur Martinez Cobo in 1971, who reported on the discrimination towards Indigenous people and recommended measures to be taken by the United Nations to eliminate such discrimination. This led to the establishment of the Working Group on Indigenous Populations (United Nations 2020). The chair of this group was Erica-Irene Daes, who in 1994, published her report on the Protection of the Heritage of Indigenous People. Her report addressed the necessity for the definition and recognition

of cultural property and the nature of ownership, the recognition of traditional legal protocols and the general recognition of Indigenous rights (Attar, Aylwin, and Coombe 2009). This was submitted in parallel to the draft Declaration on the Rights of Indigenous Peoples which was adopted eight years later by the Human Rights Council with a vote of 30 in favor, 2 against, and 12 abstainers and by the General Assembly one year later in 2007(United Nations 2020). UNDRIP is stated to be the

most comprehensive international instrument on the rights of indigenous peoples. It gives prominence to collective rights to a degree unprecedented in international human rights law; it establishes a universal framework of minimum standards for the survival, dignity and well-being of the indigenous peoples of the world; and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples (United Nations 2020).

The most significant article in the declaration for discussions of cultural property is Article 12 which states

Indigenous peoples have the right to practise [sic.] and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies, and visual and performing arts and literature, as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs (United Nations 2007, 12).

Heritage rights, in this way, achieve the same caliber of respect as rights to life, liberty, and security of person. They are viewed as a means for maintaining livelihoods (Meskell 2010, 841). Heritage rights equate to human rights in that their destruction constrains human potential and welfare and does lasting damage to future generations (Meskell 2010, 844).

The restitution of the kinds of property encompassed in the above passage does more than revitalize traditions and provide communities with tools to maintain the manifestations of their culture. Restitution can symbolize the close of colonial occupation, the acknowledgement of an independent identity, and the return of sovereignty (Vdorljak 2006). In other words, the recognition of cultural rights and thus control over cultural property is a significant aspect of Indigenous peoples' self-determination. The link between self-determination and the right to dictate matters over one's material culture is compounded by the focus on collective rights which the declaration takes. Anthropological research has demonstrated that the establishment of relationships among people and groups is often formulated around material objects (Welsh 1997). In the same way that personal property is connected to individual identities to the point that the loss of things causes pain, "group-hood expresses something about the entire groups' relationship to certain property... essential to the preservation of group identity and self-esteem" (Coombe 1998, 223). Such properties are effectually "constitutive elements of group-hood" and are essential to continued cultural prosperity (Coombe 1998, 223).

The consequences of not protecting the property of a cultural group were acknowledged by the international community after World War II, as it became clear that the destruction of property was intrinsic to genocidal policy (Vdorljak 2006). Indigenous activists have pointed to the parallels between the assimilation policies and the practices of Nazi Germany towards the Jewish population to inculcate settler nations in the same discriminatory practices. Furthermore, they point to the fact that the acts of Nazi

Germany were not deemed valid and legal merely because they “conformed to the prevailing ideology,” an argument often made by museums whose collections were largely built during the eras of imperialism and colonialism and by means that would conflict with present-day ethics (Vdorljak 2006, 146).

Heritage Discourse

Many of the same museums who argue that their collections should be judged based on the moral and legal ideologies which prevailed at the time of the act of collection also argue that the objects can more accurately be described as belonging to the “heritage of humankind” rather than to one particular group. The international policies for the protection of cultural property, particularly the Hague Convention and the 1970 Convention, are based on the doctrine of a shared heritage across humankind. These two protocols share a Western definition of ownership and prioritize the nation-state as the cultural unit whose integrity is at stake. As demonstrated in the previous section, Western concepts of ownership are often incongruous to the ways Indigenous peoples relate to their material culture. This has led to policies that may appear sympathetic to Indigenous repatriation goals but end up being antithetical to the overall goals of Indigenous self-determination (Attar, Aylwin, and Coombe 2009).

The Hague Convention and the 1970 Convention are examples of two related principles; cultural internationalism and cultural nationalism respectively. Supporters of these concepts share the belief that the material culture from around the globe should be protected because it is the inheritance of humanity but differ in their ideas of what is the

most effective form of preservation. Cultural nationalists believe objects are the most effective at telling the history of humankind when they remain in their country of origin and are closest to their original context, demonstrated by the preamble to the 1970 Convention.

considering that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting...- 1970 Convention (quoted in Merryman 1986, 843)

Cultural internationalists believe historic artifacts tell a deeper story when located in metropolitan centers where the most people are likely to see them and they can be compared to the material objects of other world cultures (Appiah 2006; Merryman 1986). While the Hague Convention does not call for any mass relocation of artifacts, it defines cultural property from a cultural internationalist perspective, considering it the heritage of every people and places the obligation of its care on all nations (Anderson and Geismar 2013, Merryman 1986, 836).

Neither of these arguments further the goals of Indigenous repatriation efforts, though cultural nationalism may seem to at first glance. Cultural internationalism more clearly represents a world view that would not likely support repatriation. The internationalist perspective has also been called a “cosmopolitan attitude.” This “attitude” implies that objects will naturally move through the free market to those willing to pay the most for them. To protect their investment, the purchaser will inevitably ensure the protection of their investment (Coombe 1998, 221). The implication is that collectors have had a better appreciation for the value of cultural objects than their creators.

Regardless of whether their actions would be deemed ethical today, their past actions were considered appropriate and the collectors ought to be celebrated for their contribution to “the spiritual wealth of mankind” (Appiah 2006, Vdorljak 2006, 71).

Some museums have applied the “cosmopolitan attitude” to the defense of their collections. One of the tenants of the Universal Declaration of Museums is that large metropolitan museums have better facilities for preserving these artifacts, made possible by their larger funding opportunities (Art Institute of Chicago et. al. 2002). They suggest that if globally important artifacts stayed in their countries of origin they would likely have been lost, either because the people there did not understand the value of what they had or worse, they did not care (Art Institute of Chicago et. al. 2002). This argument disregards the forces outside the market which might induce someone to value a cultural object beyond what it offers as a commodity or source of historic knowledge (Attar, Aylwin, and Coombe 2009). It has been demonstrated by theorists like Appadurai that certain objects have always been excluded from the category of commodity, a symbol of their value, either from the moment of their production or through diversions during their social life because of some spiritual or cultural significance (Appadurai 2007).

Coombe critiques cultural internationalism as, in reality, something other than a “cosmopolitan attitude,” something “more Eurocentric than worldly, more monocultural than respectful of cultural difference, and less concerned with the purported ‘interests of all mankind’ than with the interests of maintaining western hegemony” (Coombe 1998, 222). Neither does cultural nationalism escape the critique of “maintaining western hegemony.” In Western international law, the sovereignty of States is paramount

(Vdorljak 2006; Merryman 1986). When repatriations are limited to the national level, as they are in the 1970 Convention, the sanctity of the nation is upheld. Returns solely to the State level are particularly problematic for settler nations. The incorporation of Indigenous culture as a supplemental feature of the dominant culture depoliticizes the colonial actions which created the social and political power dynamics that originally allowed for the collection and display of the relevant cultural material. It treats the unique culture of a people as a resource to be tapped into by the State (Attar, Aylwin, and Coombe 2009). The repatriation of Indigenous material culture to a State fails to realize the self-determination goals of cultural property claims by not recognizing the Indigenous people as a sovereign entity. It continues the paternalistic methodology of colonialism which denied Indigenous peoples of their unique identities. Vdorljak demonstrates this with the example of Indian material objects curated in London.

...colonized peoples shed their own cultural identity and became British subjects; just as their sovereignty had been extinguished and their territories were absorbed into the British State under international law... London was a symbol of responsible custodianship of Indian history and culture...(2006, 56)

On the other hand, the adoption of culturally specific protocols for managing cultural property rights is a practice that recognizes the “ongoing sovereignty” of Indigenous people and acknowledges “the conditions that led to the taking of...cultural property to start with” (Anderson and Geismar 2013, 11).

Policies of both cultural internationalism and cultural nationalism could protect culturally significant monuments, sites, and objects and simultaneously uphold Western values, where the integrity of the state, both politically and territorially are maintained.

This duality provided the Hague Protocol and the 1970 Convention enough State support to be ratified in the international legal system. The repatriation of Indigenous cultural property, on the other hand, has been relegated to human rights policy. In that realm, where self-determination is strictly limited to cultural matters, returns are perceived to be less threatening and thus permitted (Vdorljak 2006; Morris 1992, 79).

It has now been demonstrated numerous times that there are many issues with approaching the guardianship of the past and its material products through a lens of ownership. So perhaps a solution would be more probable if one avoided the concepts of ownership and property altogether. Can a broader scope of stakeholders benefit from asking “who controls the past” instead of “who owns the past” (Smith 2006)? Laurajane Smith argues that making this simple change to the question better reflects the issue at hand and the motivation behind repatriation claims, which is the shifting of power relations (Smith 2006). The new question also better reflects what heritage is.

What is heritage? Is it something concrete transferred from the past to the present? Or is it something that is engaged more with the present than with the past? The former definition informs the mainstream usage of the concept. It is based in European practices of inheritance where the demonstration of lineage, power, and achievement relied heavily on the display of material culture that seemingly tied a person to a deep past (Smith 2006). Smith challenges this definition as one that “disengage[s] us from the very real emotional and cultural work that the past does as heritage for individuals and communities” (Smith 2006, 29). In her definition, heritage is something one acts out and therefore is more related to the present. The past is not entirely disconnected from this

version of heritage, but it is involved in the process solely as memory or knowledge whose meaning is constantly reassessed and negotiated in terms of the needs of the present (Smith 2006).

Being able to negotiate the meaning of the past is precisely why the control of heritage is powerful. What is often negotiated is “the very legitimacy of the colonial process” (Smith 2006, 294). Heritage negotiations force debates “about who controls what, and why” and are “about the transfer of power from ‘those who have it to those who never consented to its extinguishment’” (Smith 2006, 294). To this end, the legitimizing power of the past is conferred upon claims for self-determination (Weiss 2007). The control of heritage can then be understood as more of a control over a political resource than a cultural one. The resource in question is a collective political identity as defined by the community itself, the assertion of which supports further negotiations for cultural and civil rights (Smith 2006). It follows that a certain self-assurance and security comes from the demonstration of control of one’s own identity and through the ability to advance an understanding in non-Indigenous populations of Indigenous culture and experiences (Smith 2006).

What is Returned

The return of cultural items is one approach to regaining control over the interpretation of the past. The ability to control desired, fetishized, prized, or otherwise valued objects reinforces the power of a nation, group, or individual’s identity because it creates the ability to control a narrative. When the collective or institutional narrative

invalidates one's own, when you do not have control over the interpretation of your memories, the construction of identity becomes problematic (Krmpotich 2014). When the way people remember is altered, it creates an opportunity to "revitalize people's sense of pride in their culture" (Krmpotich 2014, 149). Cara Krmpotich's analysis of repatriations of ancestral remains in the Haida Gwaii community of British Columbia exemplifies this process. The removal of Haida remains and their storage and study in foreign cultural institutions caused a feeling in the community that the families had not fulfilled their social obligations to care for their ancestors. When the ancestors returned, "narratives of loss [were] amended by narratives of control, kinship, [and] responsibility" (Krmpotich 2014, 149). Haida's felt they were able to fulfill their responsibilities to their families and could tell a version of their family history they could feel proud of (Krmpotich 2014).

The reintroduction of material objects can also result in the renewal of semi-forgotten practices. As collective memory is maintained through bodily practices, renewed practices contribute to another form of collective re-remembering. Cara Krmpotich calls this a re-experiencing of the "elements of the cultural archive," and sees these experiences as supporting "relatedness and continuity through time and space" (2014, 13). By connecting to objects which were created before the traumas of colonization, a bridge is built between the cultural values of the past and present, creating a larger store of knowledge to be used as "a means of dealing with the 21st century" (Krmpotich 2014, Simpson 2009, 122).

But while repatriation reconnects source communities with their pre-colonial past, it is never totally removed from colonial actions. Cressida Fforde speaks to this in her

chapter on “Collection, Repatriation and Identity.” She states that “reburial has more to do with the shared history of Aboriginal and European society than it does with pre-contact Australia” (Fforde 2002, 39). Reburials would not have had to occur in pre-contact Australia, which necessitates an “active development of contemporary aboriginal customs” that are guided by elements of pre- and post-contact and the present (Fforde 2002, 39). In this way, dealing with the 21st century means dealing with the repercussions of non-Indigenous actions. This simultaneously requires Indigenous people to prove themselves to non-Indigenous institutions through timeless continuity while non-Indigenous redemption depends on the productiveness of Indigenous cultural expression to create new traditions (Katherine Lambert-Pennington 2007).

This irony was noted by Katherine Lambert-Pennington during her observation of a repatriation and reburial within the La Perouse community in Sydney, the same community whose land council requested further research be done on the Gweagal shield. The event underscored “the irony that repatriations and reburials both create a need for cultural knowledge and ceremony and mark aspects of aboriginal culture that are irrecoverable to Kooris living in post-colonial Australia” (2007, 327). This paradox caused some in the community to feel that the reburial was an inappropriate event in which to take part. Lambert-Pennington discusses the awareness that people had to the ways that their urban-ness, and therefore presumed disconnect from traditional practices, “make their cultural identity claims seem suspect” (2007, 315). She quotes one woman who said “We’re not tribal. We’ve never been tribal here. That was taken away. We don’t know where those bones came from or how to do a smoking ceremony. If they stir up the

spirits, no one will know how to sing them back in the ground” (2007, 313). This statement demonstrates that while tradition may be considered something in constant development within academic literature, there are still legitimate concerns with following it in some communities. Repatriation can challenge those traditions.

Others critique repatriation as the wrong thing to focus attention on. Paul Tapsell, a Maori curator, spoke of repatriation as a distraction from other partnerships in his chapter “Partnership in Museums: a Tribal Maori Response to Repatriation.” He argued that it invokes reaction rather than negotiations of mutual benefit (2002, 284). He saw the pursuit of relationships between Indigenous and non-Indigenous New Zealanders as a more valuable endeavor. Lambert-Pennington similarly argued that, in contrast to relying on the cultural exceptionalism of Aboriginal peoples as the solution to inequality, relationships have the potential to foster empathy and “recognition of the structural inequalities that often position Indigenous and non-Indigenous people on opposing sides of local issues” (Lambert-Pennington 2007, 321).

What is demonstrated by the preceding review is that even amongst those who feel that repatriation is ethically the right thing for museums to pursue, there is no agreement about the best process with which to move forward. What does seem a promising path, however, is the alteration of how museums and non-Indigenous stewards of Indigenous material culture think about how we relate to objects from the past. To do this, it is necessary to account for the specific circumstances of communities and individuals through consultations. In this way, relationships are built which can facilitate creative solutions that fit the unique needs of the people involved.

Chapter Three: Theoretical Framework and Research Design

In this thesis, I examine the development of the *Encounters* exhibition through the perspectives of people intimately involved as well as their perceptions of its motivations, strengths, weaknesses, and effects three years after its closure. The discourse in the interviews conducted for this research, media coverage of *Encounters*, and the Indigenous voices represented in consultation recordings and the exhibition catalog were often attentive to the issue of repatriation. The exhibition created a space for people to air their thoughts and feelings on the debate. Indigenous Australians negotiated with the NMA and British Museum, in ways that best fit their particular circumstances, the kinds of relationships they wished to have with the museums and with their belongings currently held in them. I, therefore, grounded my analysis of the data collected on the assumption that the exhibition was part of a larger process of repatriation rather than an example of a repatriation that did not happen. The goals of the analysis were then to understand what objectives of repatriation are met while at the negotiating table rather than at the moment of return. In contrast, media attention has focused on the physical return of the shield and the British Museum's opposition (Keenan 2018; Voon 2017; Shukla 2019; Malvern 2018). By presenting a multidimensional analysis of repatriation, I hope to demonstrate that museums that are unable or choose not to return items in their collection or source communities who do not want repatriation but do want to participate

in the stewardship of their belongings in museums might find alternative and creative paths towards building mutually beneficial and mutually respectful relationships with each other.

During the analysis stage of this research, I found that the various meanings attached to the Gweagal shield and the perspectives on its potential return could not be unpacked without giving due attention to the particularities of its social life and the specific colonial history of the Sydney region. Cara Krmpotich points out that a rather small body of literature currently exists which situates repatriation efforts within local contexts, in comparison to the juxtaposition of multiple case studies to demonstrate broad political movements (2014, 10). Through this thesis, I also aim to contribute to that smaller body of research in advocacy for in-depth consideration of local history and politics when working through issues of material culture stewardship.

Preliminary background research resulted in the selection of an Australian institution as a useful case study. While Australian institutions may be willing to return ancestral remains and secret sacred objects, Australia's historic and present ties to the British Commonwealth have resulted in a large proportion of Aboriginal material culture being transported to foreign institutions. No legally binding conventions exist that would easily facilitate international repatriations of Indigenous belongings. Returns then require museum-to-museum negotiations making relationships and dialogue essential. The *Encounters* exhibition and subsequent claim over the Gweagal shield were selected for further research because many common issues around Indigenous material culture and

repatriation arose but the unique combination of circumstances which led to the exhibition and claim point to the particularities of Australian cultural work.

Theoretical Framework

The analysis of the data presented in this thesis is grounded in theories that stress the importance of understanding objects not just through their physical attributes or perceiving their meaning as inherent. Rather, objects take on meaning as they move through a social life and enter into relationships with people across time and space (Appadurai 2007; Kopytoff 2007). I apply these theories to explore the multiple meanings the Gweagal shield represents and the importance of considering them in decision making. This requires an awareness of the history and politics of the places through which the object moved and moves. Because an object links those who encounter it through their shared attachment of meaning, people connect across history and geography. The concept of contact zone, first coined by Mary Louise Pratt and linked to museums by James Clifford is applied to the connections people make through objects. The contact zone is defined as “the space of colonial encounters, the space in which people geographically and historically separated come into contact with each other and establish ongoing relation, usually involving conditions of coercion, radical inequality, and intractable conflict” (Pratt, quoted in Clifford 1997, 193).

Alternative Materialities

Western, Cartesian epistemologies separate humans and objects from each other, their relationship relegated to the control humans have over objects (Van Dyke 2015, 4).

However, from some non-Western perspectives, the world is not parsed “into living and inert, or material and ideal categories” (Van Dyke 2015, 7). Ruth Van Dyke suggests that approaching the human/object relationship through lenses of “enchainments,” “bundles,” “entanglements,” and “assemblages” may afford the researcher greater insights (2015, 6) These terms are similar in that they illustrate the multitude of meanings, agencies, and relationships an object might have with the world but vary in the degree or type of relationship they reference.

Qualities and meanings are bound together with the material to create a “bundle,” grouped “in ever-shifting relationships, and across both space and time” (Van Dyke 2015, 12). The American Indian medicine bundle is a tangible example of the concept. The elements which make up the bundle exist as one entity, with each piece only understandable in its relationship to the whole. To approach other objects as bundles, one must then consider all its physical attributes as well as the variety of meanings which people attach to it and the many relationships people have to those meanings to achieve a holistic understanding of the object. Closely related to the bundle concept is “assemblage,” where the tangible and intangible relationships between material and human are contingent, unable to be reduced to parts (Van Dyke 2015, 11).

“Entanglement,” in comparison, implies an interdependence and obligation between humans and the material world. Humans rely on the material to serve some purpose, utilitarian, ritual, or other. The material creation, in turn, relies on the human to maintain it so that that purpose can continue to be served (Van Dyke 2015,12).

“Maintain” can mean both to repair and conserve the same object or to replace the object so that its role rather than its physical state is continually preserved.

What all of these concepts hold in common is the assertion that objects participate in relationships. They are agents in natural and cultural processes. Object agency, as applied in this paper, refers to Alfred Gell’s concept of secondary agency. While in some world views, primary agency is perceived in particular objects, where they have a consciousness and act purposefully, this does not apply to all cultures and when prescribed, is generally restricted to religious objects. Alternatively, secondary agency does not imbue objects with consciousness but recognizes that objects affect people’s identities and actions (Fullen 2015, 142). Secondary agency requires human-object interaction. Through an object’s participation in social interactions, acting as an “index,” people infer “the intentions or capabilities of another person” (Gell 1998, quoted in Fullen 2015, 126). Potentially, someone may act according to those perceived intentions, and the object has been an actor in bringing about an action (Fullen 2015, 126). In considering objects through the concepts of bundles, assemblages, entanglements, and enchainments, the indexical possibilities of objects are sound.

Object Biographies

“Enchainments,” in many ways related to the above concepts, are the links made between places, people, functions, and meanings that an object constructs as it moves through space and time (Van Dyke 2015, 9). That movement can be considered an object’s life history, an idea put forward by Igor Kopytoff in his essay “The Cultural Biography of Things: Commoditization as Process” (2007). He suggests that by recording

the life story of an object, insights into the social structures of associated groups may also be established. In building a biographical account of an object, one could ask questions such as, “what are the possibilities inherent in its ‘status,’ what has been its career so far, what do people consider to be an ideal career for such things, what are the recognized ‘ages’ or periods in the thing’s ‘life,’ how does the thing’s use change with its age.” The responses will be culturally informed and can reveal judgments, convictions, and values (Kopytoff 2007, 66).

These questions establish a range of possibilities, of “idealized biographies” and how “real-life departures might be perceived” (Kopytoff 2007, 66). These departures can be as or more illuminating of social values than an object that stays the course of its intended trajectory. Rather than “departure,” Arjun Appadurai uses the term “diversion” in his introduction to *The Social Life of Things: Commodities in Cultural Perspective*. Appadurai argues that while paths are socially regulated, it is through competition and institutionalization that objects are diverted and it is in these cases that the connection between politics and value is most visible. To unpack this, the object as commodity needs to be understood first.

Commodities are not particular types of objects nor are commodities always such. A commodity is a state rather than a thing. Appadurai presents three situations in which objects relate to “commodity-hood”; i.e. the commodity phase, commodity candidacy, and commodity context. Importantly, objects can move in and out of any of these situations and, in all three, the “socially relevant feature” of the object is its exchangeability. The commodity phase is the period when an object is considered a

commodity. The commodity candidacy is the criteria by which commodity is understood and is generally part of a cultural framework. The commodity context is a temporal or spatial “arena” which combines with a commodity candidate to slide into its commodity phase (Appadurai 2007, 13). When something is exchanged, those involved in said exchange are making value judgments about the object, therefore exchange creates value. If the force which pushes an object in and out of the various commodity phases and influences its exchangeability is politics, then politics and object value are connected.

The *power* inherent in the politics which dictate the exchangeability of objects is why diversions are important. When the status quo remains stable, standard trajectories of object lives are maintained. It is during times of crisis and creativity that objects diverge from their predetermined paths. As Appadurai puts it, diversions are “competitively inspired,” taking place within “tournaments of value” where “strategic skill is culturally measured by the success with which actors attempt diversions or subversions of culturally conventionalized paths for the flow of things” (2007, 21). This is the reason, argued by Appadurai, for why changes in consumption occurring at a rapid pace, when not dictated by the powerful, are often threatening to them. When enough diversions of particular objects occur, new paths and new meanings for the category of objects are created and indicate a social change (Appadurai 2007; Pearce 1994). Additionally, power over value is power over knowledge. This is especially true when an exchange is intercultural and spans large distances. Generally, when the producer does not share the same knowledge of the market as the purchaser or seller, they will not profit as much as others involved in the exchange (Appadurai 2007).

What can diversions look like? They can take place through decommodification, the restriction of exchangeability, and even through intensification of commodification and then back again. Appadurai presents us with the example of the oriental rug, as analyzed by Brian Spooner (2007). When these rugs entered the European market they were *exclusively* available to the upper classes. Over time, advances in technology allowed producers to put more rugs on the market and made them more available to a broader spectrum of economic classes. This spurred a new conversation about authenticity (constantly shifting the criteria which made something valuable, interrogating the motives of producers, and creating an “obsession with origin”) to again restrict the exchangeability of particular “valuable” rugs (2007, 44).

Museums similarly dictate what is valuable through the restriction of exchangeability. Objects which enter a museum collection are removed from their commodity phase. In doing so, museums also narrow the commodity context of categorically similar objects that still exist in the market. They set the criteria of authenticity for cultural objects and through the objects, the producing culture. Diverting cultural objects into museums and back again through repatriations are then both demonstrations of power. Through singularization, museums assert an authoritative knowledge of culture. By increasing the exchangeability of knowledge connected to objects, either through their return to circulation or increased intellectual access, source communities reject museums as the sole knowledge bearers.

Museum Objects as Contact Zones

Many people understand the museum object as something stripped of its commodity candidacy, to also be stripped of its social life (Kreps 2003). This is not surprising when one considers museum missions to preserve collections in perpetuity. Embedded in that mission is an essentialist assumption that an object's meaning is inherent. Preservation of the object then preserves the meaning as it existed when it entered the collection. However, both post-structuralist theories of archaeology and postmodern theories of representation make room for an idea that the meaning of an object is subject to the interpretive context and each representation of meaning is only a "partial truth" (Tilley 1994; Clifford 1997).

Here it is useful to bring back the notion of enchainments to further expand on the multivocality of objects. As an object moves through its life history, each of the successive people and events engaged with it and the memories and associations it ignites become linked. The object is all of these things and each has a relationship with the others because of their shared attachment to the object. When a person engages with it they simultaneously enter into the historic and present relationships, negotiating and contesting the power to dictate the representation of their reality.

The temporal and geographical linking qualities of objects make them candidates to act as "contact zones." The term contact zone was coined by Mary Louise Pratt and later applied to museum spaces by James Clifford. In Pratt's original definition, "geographically and historically separated groups establish ongoing relations" within contact zones (Clifford 1997, 192). In this paper, the concept of contact zone is applied to

objects because it is through objects such as the Gweagal shield that museums and Indigenous communities negotiate larger issues of recognition of rights, representation, and museum complicity in colonial processes. It is also through the enchainments present in objects that contemporary stakeholders are in contact with historic events, perspectives, and people, all of which are part of the negotiations.

Political Economy

To adequately analyze the enchainments within an object and the negotiations made through contact zones, a knowledge of the historical background of the object and its stakeholders is necessary. This background should account for power, economics, and practice, the fundamental grounding points of an anthropological political economy (Roseberry 1988). In Roseberry's book *Anthropologies and Histories: Essays in Culture, History, and Political Economy*, he highlights the work of Eric Wolf, author of *Europe and the People Without History*, as emblematic of these kinds of considerations. Wolf's theoretical addition to political economy is an emphasis that no society is bounded and thus attention should be paid to historical *interactions* when considering practice, class, capitalism, and power (Roseberry 1989).

Wolf describes the way cultures have been analyzed within alternate theoretical frameworks through the imagery of billiard balls. Cultures, the billiard balls, are bounded things. In this reality, Wolf's "global pool hall," these bounded entities would be easily sorted. If they ever came into contact with each other, they would simply spin right off of each other (Wolf 1982, 373). This interaction might shift the thing's position but the internal qualities could not be shared. False realities are created when we understand

entities like a nation or culture to be like these billiard balls. The implication is that qualities and perspectives are homogenous within a culture and wholly distinctive from outside groups. In contrast, in a political-economic approach, “the world of humankind constitutes... a totality of interconnected processes” (Wolf 1982, 370). Wolf’s suggestion was to undertake research by starting with the hypothesis that contact and influence amongst people is universal and it cannot be separated from any number of other contacts in “web-like, netlike connections” (Wolf 1982, 38).

Wolf theorized that “the formation of communities was intimately connected with a larger history of colonialism, empire-building, international trade, and state formation” and that it was necessary to “see local communities as products of centuries of social, political, economic, and cultural processes” which then had to be understood in global terms (Roseberry 1988, 163). Roseberry gave this kind of interaction the phrase “internalization of the external.” Unpacked, this suggests that at any point of intersection between the internal and external, what the external forces encounter are not a homogenous or static entities but a diverse populations that already have amongst themselves a varied “sedimentation” of prior and ongoing interactions (Roseberry 1989, 89).

The importance of these considerations, of partial histories, contact networks, and the multiple meanings communicated through material culture, was well made by Raymond Williams. Through the “reinterpretation and rewriting of history, concentrating on events and relationships excluded from the ruling version and pointing to a different set of historical possibilities,” a narrative can be told which better represents the lived

experiences of people previously denied the power to define their reality (quoted in Roseberry 1989, 76).

Methodology

A methodology can be defined as a framework of assumptions that guide the way one conducts research (O’Leary 2004, 85) or where theory and methods meet. This research was guided by a mixture of methodologies. These were critical museology as “studying up” and discourse analysis. Participants, methods, and interview questions were chosen based on the principles of these methodologies.

Studying Up and Critical Museology

In her 1972 article entitled “Up the Anthropologist: Perspectives Gained from Studying Up,” Laura Nader argues that anthropologists have much to offer in the study of power and responsibility. She suggests that this approach is urgent as “the quality of life and our lives themselves may depend upon the extent to which citizens understand those who shape attitudes and actually control institutional structures” (Nader 1972, 1). She emphasizes the necessity of indignation at the problems facing society to ask important questions while asking her own; “what if, in reinventing anthropology, anthropologists were to study the colonizers rather than the colonized, the culture of power rather than the culture of the powerless, the culture of affluence rather than the culture of poverty” (Nader 1972, 2;5). In doing so, the traditional service functions of an anthropologist are reignited to include not just scientific but social services as well (Nader 1972). Their work can educate the citizenry about the institutions that affect their lives, giving them more power to affect change over social issues.

Critical Museology is a focused demonstration of “studying up.” Museums as institutions with social power is a topic well covered in the literature (Peers and Brown 2003, Clifford 1988, Lonetree 2012, Kreps 2011b). For centuries, Indigenous material culture has been collected and stored in museums. Institutional missions have been to preserve the tangible material which represent cultures. Paradoxically, this has been with little regard to the views and beliefs of the living cultures that produced the objects in their collections. As “historically situated social institutions” (Ames 1992, 4) museums collected artifacts according to Western epistemologies of classification and hierarchization in the 18th and 19th centuries (Marstine 2006). More and more objects came into museum collections as products of expansion during the ages of discovery, imperialism, and colonialism and their collection was predicated on the uneven power structures which existed in those situations (Peers and Brown 2003). Once a part of a museum collection, objects were recontextualized in numerous ways as part of the endeavor to explain and understand the world. Museum objects were seen as frozen in time and space, with the implication that the related culture was also relegated to the past or was static in nature, never changing and therefore unable to participate in the modern world and survive (Kreps 2003).

Museums, often supported by a national government and understood as spaces for scholarly research and professionalism (Cameron 1971, Ames 1992), have a legitimizing effect on the rhetoric produced within their walls and would often reinforce these dominant ideologies (Shelton 2011). These representations of culture have caused real harm to the continuation of Indigenous cultures around the world by insisting that they

are backward, unadaptable, or no longer practiced. In many instances, the collection of Indigenous material culture has created a separation, of people and objects, through time and space; relationships necessary to pass on knowledge and practices across generations. The ability to do so strengthens identity and supports self-determination. While change has been taking place in museums to repair relationships with source communities and to reconnect those communities with their material culture held by museums, there is still work to be done. To continue the forward momentum, it is important to look at what museums are doing, both in the public's view and behind the scenes; to check in and see if their policies and actions are representative of current and progressive discourse and practice. As previously stated, museums are historically situated and through their analysis, it is possible to create a picture of current social discourses, be it through an examination of the types of exhibitions chosen, the various relationships they have with communities, collection management strategies, the types of artifact-based research they support, etc. Michael Ames stated that "museums provide numerous opportunities to examine cultural patterns and cultural properties as they are actually being conceived, practiced, manufactured, transformed, disseminated, used, and misused" (1992, 47). The cultural patterns and properties he is referencing are those of ourselves and of cultural contact rather than the "authentic" culture of the other which museums are traditionally thought to examine and present.

Discourse Analysis

In her book *Uses of Heritage*, Laurajane Smith uses discourse analysis to study the "authorized discourse" of heritage. She defines discourse as a form of social practice.

Imbedded in language, in the way people talk about things, are social meanings, power relations, forms of knowledge, and ideologies (2006, 4). Consequently, discourse not only reflects the way people see the world but constitutes the ways they act in it (Smith 2006, 16). A defining characteristic of discourse is that it is structured and legitimated by those with power. In doing so, conventions founded on inequality are taken as given and the natural way of things. Ideologies embedded in the production of knowledge are hidden. Additionally, discourse is historically produced and always situated in time and space (Meyer 2011, 12). That is, the historical context of every discourse is important to its analysis. Smith expands this definition and argues that “discourses are not just about sustaining and legitimizing certain practices and social relations but may also simultaneously be engaged with social change” (2006, 16). Heritage, as a process of communication, meaning production, and engagement, can be analyzed as a discourse, but one that is “an explicit and active way of negotiating cultural and social change” (Smith 2006, 1-5).

The participants in this research are regarded as experts in their fields. Some held positions of authority in the museum. Therefore, they held a certain amount of power to direct the consultation processes and select the information and perspectives represented in the exhibitions and related publications. I analyzed the way the participants in this research spoke about the processes leading up to *Encounters*, related discussions on repatriation, and the attention both received during and after the exhibition as reflective of the current social practices of heritage professionals engaged with the NMA. I acknowledge and investigate the historical context that these discourses are embedded in.

Smith's assertion that engagement with heritage discourses actively involves one in negotiations of "cultural and social change" supports my theoretical framework that museums and originating communities can negotiate the role museums play in the recognition of Indigenous rights through the "contact zone" of contested, culturally significant, objects.

Data Collection

Semi-Structured Interviews

The main form of data collection in this project was semi-structured interviews. A list of participants can be found in Appendix A. Participants were selected because they either participated in the developments of the *Encounters* exhibition and/or its sister exhibition in London or have academic and personal experience with repatriation in Australia. The decision to focus interviews on people who had direct involvement with *Encounters* was grounded in the methodologies described above. Museums, as culturally authoritative institutions, have a legitimizing power over cultural representations and heritage discourse. By studying museum processes and practices, both the way they are carried out and how they are discussed, one can determine whether they support or challenge existing conventions.

The interviewing method of this research is best characterized as semi-structured interviews (Bernard & Ryan 2010, 29). I did not ask participants identical questions but asked questions on similar topics. This was the most appropriate method because each informant had played a different role in the exhibition or had different experiences with

repatriation. Therefore, each person had different expertise and the questions prepared were tailored to and based on their professional position, publications, and publicly available statements related to the research topic. It was also important to utilize the flexibility provided by semi-structured interviews. This format of questioning, the ability to adjust the order of questions or even the questions themselves as the interview proceeds, “cedes some control to the respondent over how the interview goes” (Bernard & Ryan 2010, 29). This project was approached from the assumption that the various perspectives and principles of those involved in the exhibition and claim would illuminate the reasons behind the complexity of the situation. Those perspectives required in-depth exploration. For this reason, it was crucial to allow space for the interviewees to be able to guide the interview down paths they deemed most relevant. This method of interviewing also left room to explore topics that came up during the conversation which had not previously been accounted for during preliminary research and planning.

A total of eight in-person interviews were conducted in Australia. Each interview lasted approximately one hour. One interview took place via e-mail due to the participant not being available during the time frame of the fieldwork. A unique interview guide was prepared before each interview with between 10 and 15 questions for each guide. Before starting an interview, each participant was supplied with a paper copy of a consent form (see Appendix B). Interviews were recorded and transcribed at a later date. I supplied each participant with the transcript of their interview so that they could make clarifications if necessary or retract any statements. In addition to recording the interviews, field notes were taken during each interview on topics to be explored in

greater detail and statements which would likely be significant in the analysis stage of the research.

In-person interviews in Australia were the preferred method for this project. Bernard and Ryan list the various advantages of face-to-face interviews, including providing the ability to clarify questions or answers and eliciting longer and more in-depth responses (2010, 45). Additionally, one doesn't have to worry that an e-mail will get lost or forgotten. During the progression of an interview, a level of comfort between interviewer and interviewee may be reached allowing for a more conversational environment and further detail provided in answers. While video calls are increasingly efficient, poor internet connection and the physical presence of a computer screen between the two participants can limit the comfort level that comes from talking in person and open up space for distractions. It was also a helpful supplement to the research to have the ability to see the museum exhibits currently on display and experience the physical and social environment in Australia first-hand. This provided a personal impression of context for the topics in question.

Secondary Analysis

One interpretation strategy of the *Encounters* exhibition was to include filmed interviews with Aboriginal community members. In these interviews, participants discuss the objects on display that came from their country, what it means to have certain artifacts back on country after a long time away, what they would like to see come out of the exhibition, and so on. These interviews are accessible on the NMA's webpage. Held in conjunction with the exhibition, a conference was hosted entitled "New Encounters:

Communities, Collections, Museums” (New Encounters). A select number of videos and transcripts from the conference are also available on the NMA’s webpage. These two data sources were analyzed to explore the large body of perspectives on the repatriation of Indigenous collections from foreign institutions that the participants engaged with while developing *Encounters*. It was not within the means of this research project to recruit a representative sample of Indigenous people across Australia for interviews. It was also important in trying to answer my research questions that I focus on informants who had direct insight into the museum world. As part of the critical museological approach I wanted to find out what actions, if any, the museum was taking that paralleled current museological theory. To do this, I needed to know what was going on behind the scenes and what was motivating decisions. For this reason, the interviews done by the museum and the conference are only supplemental to my research.

Bibliographic Research

Bibliographic research was necessary for the contextualization of the *Encounters* exhibition and the larger social atmosphere in Australia regarding repatriation. This research makes up the bulk of the Background Chapter. It was also the main source of information on historic and current international policy on the return of material culture. I used two main sources for this information, *Witnesses to History: Documents and Writings on the Return of Cultural Objects*, published by UNESCO in 2009 and *International Law, Museums and the Return of Cultural Objects*, by Ana Filipa Vrdoljak, a Senior Lecturer at the Faculty of Law, University of Western Australia. The latter source was extremely helpful in its discussion of Australian trends within global policy.

The published catalogs of the *Encounters* exhibition and its predecessor at the British Museum, *Enduring Civilizations*, were also quite important as both exhibits had closed three years prior to my research. They act as the closest approximation for what visitors to the museum would have seen and as a record of what messages the museum was presenting.

Coding

To identify the salient themes which came forward during interviews, a process of coding was used. Transcripts of the interviews were read thoroughly and a list of themes was formed based on repeating concepts. A first set of “big idea” themes was created that constitute the general topics for analysis, such as “legislation.” Many themes in this first set contained sub-themes. For example, “legislation” encompassed “disagreement with the application of...” and “soft-diplomacy.” The sub-themes grouped the similar perspectives of participants on the topic of the main theme. The transcripts were read through again and passages were tagged with one or more sub-theme. These passages were then extracted and grouped under their themes.

Ethical Considerations and Scope

In accordance with the University of Denver’s Internal Review Board requirements and the responsibilities of the Anthropology field, it was important to take ethical considerations into account during all stages of the research project. Although my research population is not deemed at risk and I was able to submit the research for review as expedited, there were still a number of ethical positions to think about. One important

characteristic of this research project is that I, as the researcher, did not design this project with the intention of the Indigenous people of Australia being the subject of study. As discussed above, it is commonly acknowledged within a critical discourse of museums that it is no longer acceptable for anthropologists and museum professionals to claim a right to speak for Indigenous peoples. While the subject matter of the exhibition was Aboriginal material culture, the case study itself is of the role a repatriation process had in expanding relationships between museums and communities. Three participants are Aboriginal, though their interviews did not include questions regarding ethnographic details of their cultures but were about their individual experiences with the museums, the *Encounters* exhibition, and repatriations. It should be noted, however, that it is understood that their perspectives on these experiences are influenced by their identities as Indigenous Australians.

As it was professionals that were interviewed, it was not possible to guarantee the participants' confidentiality. Without connecting their comments and insight to the roles they played in the exhibition, the research would have no validity. Their names, connected to these roles, are publicly available. However, in crafting the interview questions, it was necessary to keep in mind that in many instances people were being asked about the principles, policies, and actions of their place of employment. I did not wish to ask anything of them that could potentially create animosity in the workplace. To prevent this, I did not ask questions about their opinions on the museums or people involved and kept to questions about the how and why of processes and discussions. This

did not put any limitation on the research as again, I was interested in how institutional processes played out and relationships only at institutional/community levels.

At the same time, I was speaking with individuals and we were speaking about events, ideas, and processes that people are often quite impassioned about. Repatriation can be an extremely sensitive topic. There is no unanimous opinion on it, even (and especially) amongst Indigenous people. The objects and people that communities and individuals want to see returned are always culturally significant and conjure up immense amounts of emotion. In many instances, old wounds are opened and a lot of weight is put upon the repatriation process as a healing mechanism. And though this case, in particular, has been publicly debated, repatriation is often a very private matter. It was crucial that I keep this in mind, both during the design stages and during the interviews, so that I did not ask for information that I had no right to or inadvertently snub an emotional response to artifacts, the museums, or experiences anyone may have had.

This research is apologetically limited in the fact that it is missing voices from the British Museum and Australians who participated in the negotiations for the Albany exhibition. Those points of contact were unavailable for interviews. However, Drs. Ian Coates, Howard Morphy, and Maria Nugent all worked on the *Enduring Civilizations* exhibition and alongside the curators at the British Museum and several academic publications about the British Museum's participation in the exhibitions exist. Additionally, a collection of writings about the Albany exhibition was published. Harley Coyne, one of the authors, was kind enough to send this for use in this project. Mr. Rodney Kelly was not contacted for participation in this project. It was decided that,

because the focus of this research was to be on the perspectives that informed the planning of the *Encounters* exhibition, the details of how Mr. Kelly has pursued repatriation was beyond the scope of the project. The only statement of his that will be discussed is the official claim for the Gweagal shield

Chapter Four: Findings

The *Encounters* exhibition was never intended to be about repatriation but no one was surprised that the topic came to the forefront during consultations and discussions of the event. While the National Museum of Australia (NMA) could not force the British Museum to return objects in its collections, the strength of *Encounters* has been its long-lasting ability to ignite conversations between museums and Indigenous communities. By building relationships between museums and Indigenous people around these conversations, some cultural property repatriation goals have been addressed in a manner that is nuanced and attentive to the various stakeholders and perspectives involved. Though there have been no physical returns since the closure of *Encounters* in 2016, the exhibition itself and the subsequent research projects, collaborations, and dialogue can all be seen as part of the process, one that necessarily needs to be approached cautiously and thoughtfully. In the following chapter, excerpts from interviews with key participants in *Encounters* are presented. They begin by addressing the logistical dimension of the exhibition, from which flows the various feelings towards the continued stewardship of cultural property by museums and repatriation, perspectives on the connections between rights, recognition, and relationships, and concludes with ideas on ways museums might best suit the needs of Indigenous communities.

How Did The Purpose Of The Exhibition Develop Over Time?

As noted in the Background chapter, the *Encounters* exhibition was the result of a research project involving Dr. Ian Coates, a curator at the NMA. The British Museum was in the process of digitizing their collections and Dr. Coates was taken on to research their Australian items and to connect as much information as possible to those objects. Dr. Coates thought it would be valuable for Indigenous Australians to be aware of the breadth of the British collection and to have an opportunity to reconnect with the material. He also believed it was important for the British Museum to be “aware of the reality in Australia around this material” (Coates 2018). As the research formed into an exhibition, it was acknowledged that there needed to be community involvement in the process through consultations. However, some discrepancies came up in the interviews about how much of the exhibition had already been planned when consultations were initiated.

Dr. Michael Pickering, who headed the repatriation unit at the NMA and is now a senior curator there, described the exhibition as “always intend[ing] to have lots of community consultation and meetings with Indigenous communities” (Pickering 2018). However, in my interview with Dr. Margo Neale, Head of the Centre Indigenous Knowledges, senior Indigenous curator and principal advisor to the Director at the NMA, I learned that when the director of the museum asked her for her opinion on the exhibition, there had not yet been community consultation. Eventually, Dr. Neale set up an organized body called the Indigenous Reference Group to begin coordinating

consultations and to advise the museum board and curators on the cultural nuances of the importance of cultural property in contemporary issues (Neale 2018; Yu 2019).

Dr. Neale thought that the problematic lack of consultation might be related to the research orientation of the original project.

I said there are problems because there's been no community consultation. My presumption is that Ian and Lissant viewed this as a research project that has nothing to do with contemporary communities. That it's dead old objects that belonged to another time... this is a research project and the next minute it's an exhibition but you can't have an exhibition of material like that without them coming from the community (Neale 2018).

Dr. Coates corroborated this impression that the collections were disconnected from contemporary communities when he said, "because of that colonial disruption, in a sense, museum curators know more about these objects, the fact that they haven't seen them for 200 years or whatever means why would they know about them..." (Coates 2018). Additionally, Dr. Shayne Williams, an Indigenous consultant for *Encounters*, echoed this perspective when he said that "knowledge around those artifacts didn't exist until we started getting access to them" (Williams 2018).

The perspective that consultation would not provide much in the way of new information on the physical and utilitarian nature of the objects seems to have influenced the overall objective of the conversations which did eventually occur between the museum and Indigenous Australians. It was expressed by Dr. Coates, Dr. Pickering, and Mr. Peter Yu, chair of the Indigenous Reference Group, all three of whom were intimately involved in the consultations, that consultations focused on the significance of the objects and opinions on their representation.

With the 30 communities, from which the objects had originally been taken from, [we wanted] to get their advice on the relevancy and importance of the objects, and what their opinion was on the best way to represent the nature of that material (Yu 2019).

[We were] obliged to go out and talk to the communities about whether it ok to use these objects. Did they have anything they wished to say or comment about the way those objects would be used and the interpretation we were going to put on them and whether they had any other interpretations that they wanted to see...we were also looking for companion works, be they artworks or craftworks, that would provide a sort of historical commentary beside the original objects. So we'd go out into various communities, explain the project, show them the photographs of the older objects and get their opinions on what they were, what their function was, how they felt about these objects being in The British Museum, how they felt about objects in museums in general? So it was a wide-ranging area of inquiry but very, very useful (Pickering 2018).

Though critiqued by Dr. Neale as “white fella way,” (Neale 2018) the method of consultation used was indeed purposeful. This is apparent in a number of statements Dr. Coates made regarding what the exhibition could and could not be. He succinctly described the project as something “in the realm of what was possible” (Coates 2018). In the context of the exhibition, deciding what was possible required balancing the policies of two national museums with each other. The NMA policies prioritize Indigenous cultural rights while the British Museum has strict policies on the control of their collections and a mission to serve the global population. Additionally, the collection encompassed cultures that spanned the entire Australian continent, each with a unique history and relationship to land, settlers, and museums. It was also important to understand that it is individuals who make up these cultural groups and they do not hold one common mindset (Edmundson 2018). Therefore, it would have been implausible to solicit comments on all aspects of exhibition design and presentation and be able to adequately follow through on them. Dr. Anna Edmundson, a researcher at the Australian

National University (ANU) who helped organize the “New Encounters” conference, spoke about this complexity.

I think that the idea that a national museum can be anything other than a national museum is unrealistic. It is always going to be a balancing act to represent the opinions of diverse stakeholder groups within the national citizenry. At what point does one stakeholder outweigh another stakeholder, it’s tricky. I think the former director of the NMA, Dawn Casey, was right when she said that the NMA had to be a forum for multiple viewpoints – a place for debate rather than presenting a single narrative (Edmondson 2018).

Therefore, the first thing the exhibition could not be was a project with fully shared authority. Dr. Coates acknowledged this limitation.

It was important not to say this was a co-curated show... co-curation involves giving up authority and decisions about what goes in, what goes out, decisions about every word, about the placement of things. That is all shared. And for the national museum to do that is a pretty serious thing... If you do go down a co-curated line, it puts a hell of a lot of pressure on those communities you’re working with because suddenly [individuals] are representing their community. And you might think, well that’s great, but it actually is a huge responsibility and it means that they are saying “this is the view of all of the community, my views are all of the community’s”. People just aren’t, rightly so, prepared to do that (Coates 2018).

Secondly, it would have been irresponsible for the museum to falsely represent their ability to influence the British Museum’s policies on the relinquishment of cultural property. To Dr. Coates, then, the exhibition could also not be about repatriation (Coates 2018). For this reason, Dr. Edmondson described the project as brave, because the British Museum’s ownership of the objects created a very different scenario that limited the NMA’s ability to respond to the desires of the community where, “had an Indigenous community in Australia asked for the repatriation of an object within an NMA collection,...that conversation would have started immediately...” (Edmondson 2018).

The challenge of moving forward with the project in deference to its limitations was also highlighted by Mr. Yu, who called the exhibition “a very emotional project” (Yu 2019).

It was a very emotional project from many different angles...because of the question of ownership and the question [of how to] navigate successfully between providing the opportunity to get a greater sense of exposure and public debate about the relationship between national institutions like museums and First Peoples in the 21st century (Yu 2019).

Despite these limitations, the exhibition was deemed valuable enough to continue because of what the curators hoped it would provide.

In this case, the [NMA] was dealing with a situation where they were saying we’re going to get into bed with the British Museum. We know that the British Museum is not going to have the same proactive response to cultural repatriation of objects as we [would] but we think it’s sufficiently important that this material returns, at least briefly, to Australia and gets reconnected to source communities (Edmundson 2018).

The exhibition *could* provide communities with the knowledge of where their belongings were and with an opportunity to access them (Coates 2018). Dr. Coates hoped that Indigenous Australians and the British Museum could build a relationship around the exhibition that would enable continued and broader access to the Australian collections in London (2018). By asking consultants for their opinions on Australian items being in museums, the curators were starting conversations “about [the] nature of the history of Australia at the local level, a conversation about people’s attachment to land, a conversation about family, their aspirations for the future, and the way in which cultural heritage feeds into all of those, including these objects” to demonstrate the reality on the ground in Australia to the British Museum (Coates 2018).

The exhibition could also be used as a platform for people who felt repatriation was necessary. Some people expressed these feelings during the consultations for the exhibition and the video recordings of those consultations were used in the displays of *Encounters*. Below are just a few excerpts from these videos.

They should be in our own museum, our own possession (O'Brien 2015a).

To travel distances to see your own objects is not really good for us. It's sad in a way (O'Brien 2015b).

That would be more heartache than anything. If you're not going to bring it back forever, don't bring it back (Woods 2015).

Dr. Edmundson noted that other dissenting voices were not excluded from conversations with the museum but some repatriation advocates felt non-participation was the most useful strategy for demonstrating their political stance (Edmundson 2018). On one hand, if the museum had decided to only work with communities who did not have an interest in repatriation, "it would have looked like they were deliberately withholding material" (Neale 2018). On the other hand, if the museum decided not to continue with the exhibition because there might be backlash or disagreement from some communities or individuals, those who saw the exhibition as an important opportunity would have been denied the chance to enter into relationships which they saw as beneficial. Dr. Edmundson also spoke about the trickiness of navigating a variety of aspirations and how this was made more difficult by the fact that the degree of repatriation desires may have been exaggerated in the media and did not accurately represent the wishes of all of the communities whose objects were included in the *Encounters* exhibition.

Do the views of some communities outweigh the views of others? Because what's important to remember about repatriation and about this particular project is that there were numerous communities who did not want the material to be repatriated, [but] who still very much wanted the material coming from their lineage coming back to Australia so they could reconnect to it. One viewpoint (coming from several stakeholder communities) was that their ancestors knew what they were doing in gifting particular objects to the British Museum. Some people held the opinion that it was a good thing to be represented in institutions such as the British Museum. However, that does not make for a very exciting news story (Edmundson 2018).

Dr. Williams expressed similar concerns, stating that “in this country, [the] majority of the Aboriginal people are the silent majority,” and that the media are “only interested in the story...that's their core business” (Williams 2018).

What Were The Views On Cultural Property Being In Museums?

It was clear that the curators of *Encounters*, throughout the progression of the exhibition, were aware that a multitude of views existed in Indigenous communities on the usefulness and appropriateness of keeping their cultural property in museums. In interviews, participants spoke about their views and the views of individuals they had worked with, during *Encounters* and other projects. At times, even individuals possessed multiple views on the subject, as demonstrated by Dr. Edmondson's comment.

Looking at the case of the Menang community, Harley Coyne was instrumental in getting the British Museum to bring the objects back to Albany, to Noongar country, albeit briefly. He freely expressed that his community wanted to have this material back (ideally as a permanent return). He might also say, in the same conversation, ‘I think museums are great, I think we should have our culture represented in museums because we need to educate not just our community but all Australians about what it is to be Menang and how important our heritage is.’ Those two viewpoints are not actually oppositional (Edmundson 2018).

Dr. Neale provided an anecdote about another exhibition she worked on that involved a foreign collection and calls for repatriation. The Vatican asked her to plan an

exhibition of their large collection of Australian material. The Vatican's holdings of ethnographic material from Australia were formed mainly in two parts, many objects coming from a Benedictine community in New Norcia in Western Australia as a gift exchange in the 1850s. The second part of the collection was donated for an exhibition in 1925 from the Tiwi Islands and the Kimberley to Pope Pious XI (AIATSIS 2017). Neale remembered that when Australians learned she was going to be working with a foreign collection of Aboriginal material, there was "an assumption they were taken and stolen" and the "instant reaction to everything [was] make them give it back" (Neale 2018). She saw this standpoint as coming from

a certain politicization and peer pressure to say give it back. I think that's just couched in [the idea that] because you colonized us, you need to make recompense for that colonization but of course, you're talking to different people by the time you're saying that (Neale 2018).

In the case of the Vatican however, she felt that returning material would be disrespectful because the objects had not been stolen but gifted by Catholic Australians to their "Papa" (Neale 2018). She was aware of it happening before and how distraught some people were over it.

[The Pope] had an exhibition over something like 14 or 20 rooms of the Vatican, like took over, huge exhibition, and then, of course, they didn't want to keep all this stuff so he had to send it back and that's what was terrible, people having their material returned from their Papa in Rome that they, those who got their stuff there were just thrilled, that their stuff was with their Papa in Rome, that's a devotional act (Neale 2018).

Dr. Coates also spoke about the need to understand that some material ended up in collections through the agency of Indigenous Australians. Some people felt it would be valuable to have their belongings seen by different kinds of people and gave them

purposefully. He proposed that people may have thought that if their material was displayed, “people might understand [their] reality” (Coates 2018). Dr. Neale learned of one such case during her work for the Vatican. When one man learned that his uncle’s Tiwi pole had not been stolen but gifted to the Vatican, he said

Oh, that’s so good. People, the world, will see Tiwi culture. They’re not gonna come to this little island and see it are they? So now my uncle’s Tiwi pole, mortuary Pukumani pole, is over there and a million people a year go through that place. It’s there with all the great masters of the world, it’s with Michelangelo...(Neale 2018).

She commented that “the last thing they wanted was that stuff back. Because they were ambassadors, these were cultural ambassadors” (Neale 2018). One man who visited the London exhibition, *Enduring Civilizations*, told Dr. Coates that he felt “that the capacity to influence visitors is so much stronger in that kind of forum than it might be on the ground in Australia” (Coates 2018). Dr. Williams similarly stated that as major public facilities, “an important role of a museum...[is] cultural education...educating the wider population, not just about Aboriginal culture you know, the controversies that surround artifacts in museums as well” (Williams 2018).

One theme of the exhibition in Albany, *Yurlmun Mokare Mia Boodja (Yurlmun)*, was that many of Menang objects came to their new homes abroad through the relationship between Dr. Alexander Collie, Government Resident at the Albany settlement and a Menang man named Mokare (Coates and Wishart 2016, 19). These men shared a great friendship and Mokare’s aid in Collie’s botanic collections attests to the contributions made by Aboriginal peoples to knowledge of science and history (Coates and Wishart 2016, 24). Menang involvement in the three exhibitions was seen as a

“unique opportunity to share knowledge and understanding in the spirit of friendship that defined Collie and Mokare” (Coyne 2015).

Even though permanent return was not the goal of either the *Encounters* exhibition or the exhibition held at the Vatican, it was understood by those involved in both that by reconnecting objects to their communities, it would “give them back life” (Neale 2018). This was something very important to many communities that engaged with *Encounters*. Dr. Pickering highlighted that he spoke with consultants who said

We don’t want them back but we do want them to come back to country...where they can be refreshed, reinvigorated by that spirit of country. [We want them to come back for a] ceremonial visit and then they can go back to the museum. Not separating objects from the people who made them [is what is important] (Pickering 2018).

When people reconnect with cultural items they can revive the spirit of those objects. Renewed objects can then reinvigorate cultural practices. The desire to access collections to (re)learn techniques came up numerous times in interviews and particularly was a central theme of Dr. Williams’ discussion.

I know there’s a lot of sketches of the shield and spears and boomerangs and other artifacts around, but it’s not the same as actually seeing the artifact and being able to discern what material that artifact was made of, and how it was constructed...(Williams 2018).

It’s important for us that they have been preserved because then we have access to the original source and [the knowledge of] how they were made and what they were made of. If we didn’t have those artifacts and have access to them we’d be speculating about what they were made of and how they might have been constructed. Now we can reproduce artifacts just like those, which would be just as good as those ones, if we’re skillful enough, and just as meaningful (Williams 2018).

And then we can start reproducing them ourselves, you see? But based on knowledge from the original source, which is obviously in [the museum’s]

possession. We can learn a tremendous amount from artifacts that are held in those places. And there's designs on them as well, foundational designs on those artifacts. A lot of that knowledge has been lost around here but they still exist on those artifacts (Williams 2018).

Mr. Harley Coyne expressed a similar hope for learning about how objects were made in his interview for the exhibition.

It's a good opportunity to educate our wider community of those types of artifacts and what they were used for. Me, as a Noongar man from this country, I'm looking forward to examining that material [to see] what types of resin they used to make the stone ax and what type of wood they used to make the spears. Because I know which ones they would have used and I'm just going to, I think, confirm that, yeah, we were taught the right way (Coyne 2015).

The link between then and today's Aboriginal Noongar community is going to be really important. Because it'll give us a little bit more of a link to the past (Coyne 2015).

For these reasons, some consultants valued museums for the preservation they can offer. Dr. Williams frequently commented that, without museums, these items would not exist today to help pass down cultural knowledge. He likewise remarked on his concerns about their future if they are repatriated.

You know the worrying thing is, artifacts have been in pristine condition because they've been in special environments. If you move them out to any old body, they could end up anywhere, I guarantee it (Williams 2018).

It's not straightforward about handing them over, there's two sides of the story. We wouldn't be talking about those artifacts right now, I guarantee you, if they weren't preserved in these museums' special environments. They would've deteriorated a long, long time ago (Williams 2018).

As long as those artifacts are [in museums]..., the knowledge will always be there as well...(Williams 2018)

Dr. Pickering provided an example of others who appreciated museum preservation technologies.

Abe Muraturi I think his name is, who basically taught himself to weave this particular form of baskets by using the museum collections. He says if the museum collections weren't there, he wouldn't have been able to do that research. So, there are people that acknowledge and use museum objects for research but again generally asked to be recognized, their moral rights (Pickering 2018)

It is important to highlight here, that what people are grateful for is not preservation for preservation's sake but for the fact that, through the maintenance of an object's physical form, cultural knowledge is being preserved. If people can make the same things, knowing they did so in a traditional manner, the same knowledge is then embodied in the new items and they are worth just the same. Mr. Williams brings attention to this when he stated "I can't see why we can't reproduce the types of artifacts that are already overseas. If we make them ourselves, they would be just as good as the ones that are there" (Williams 2018). This sentiment also seems to be behind a statement from the exhibition's interviews. Steve Goldsmith, a Kaurna Miyurna Elder from Adelaide, described his son as an "artifact-maker" (2015).

Because of this perspective on what is truly valuable about an object, the permanent return of the objects is not always the priority. However, this does seem contingent on the relationship communities were able to maintain with their material culture. Dr. Neale hypothesized that the historic disconnect Indigenous Australians on the East coast have with their heritage might be why repatriation is prioritized.

There's an assumption that all Aboriginal people want things returned and the assumption more often or not is made by urban people. I would say it's partially [because] we on the East coast are the most colonized, so we're the ones that lost the most. I think there's an element of these materials symbolizing the loss of language, loss of objects. Because those objects would clearly not still exist if they were here, it's not the fact that they're not here, it's the fact that they were part of the whole suite of what was taken...For those of us who are trying to find

a way [to get those] back... then getting back your great-great grandfather's shield is a way of reconnecting with your ancestors in a material way (Neale 2018).

In comparison, Indigenous people from the west coast of Australia, like the Yolngu, haven't experienced the same degree of cultural disruption. They are quite engaged with museums.

They're involved in curating exhibitions and in the possible move of exhibitions overseas. They're in great demand as people to be involved in the opening of exhibitions, in consultations... Do they want to see objects in museum collections [returned]? Kind of but not hugely because a lot of those they're making themselves... Yolngu are not afraid of museum collections (Morphy 2018).

Are There Risks Involved In Pursuing Repatriation?

The importance of provenance was brought up in a similarly regular manner as learning from museum objects. The concern stemmed from perceived consequences of returning remains and materials to the wrong communities or individuals and the validation of unsubstantiated cultural rights. These concerns were particularly apparent in discussions over the appropriate ownership of the Gweagal shield.

Dr. Williams suspected early on in consultations that the shield to be displayed in the exhibition and identified as the one which Captain Cook took from Botany Bay, was not from that part of the country.

When a picture of the shield was shown to me, I had very strong reservations about it. For me, the shield was an awkward color for the region where we come from, a red color. I wasn't expecting that. A shield from there'd be a whitish, light grey color. And also its shape as well, so it has pointed ends on it. I was actually expecting a shield that was oval in shape. And the size of it as well, it looks quite big, so its height didn't resonate with me either. So I raised this matter with, well after the exhibition, we asked the British Museum to find out what type of wood the [shield] is actually made of? (Williams 2018).

It did turn out that the wood was made of red mangrove, which grows further north than Sydney, into Queensland. This type of mangrove is also bigger than grey mangrove, which grow in Sydney making it possible to make larger shields. For Dr. Williams, the information stirred up reservations about the shield's permanent return to Sydney and Rodney Kelly of the Gweagal clan. He was worried that "it could quite possibly belong to someone else entirely, an entirely different tribe altogether" (Williams 2018).

In other interviews, an emphasis on ensuring that cultural material went to the correct people and places was made a number of times. For example, Dr. Neale, also talking about the Gweagal shield, said

The trouble is like with the provenancing of human remains. How do you know you're giving it to the right person? Look at the contestation over who owns the Gweagal shield. There's no evidence that it belongs to the person asking for it and there's a huge responsibility to not give it to the wrong people. But the reason we don't know the non-right people is because generations ago people took it off the sand and didn't do what you do today (Neale 2018).

She contextualized these concerns with an example from Richard Luarkie of the Pueblo of Laguna in the U.S. He spoke at the "New Encounters" conference and expressed some of his concerns with Dr. Neale during a chat between the two of them.

He said, "we don't even know who made it, we don't know where it came from, we don't know whether it's cursed, we don't know anything. If we take it back to the community it actually may cause harm" (Neale 2018).

They're interested in the provenance so that there's no bad stuff around the material. Which is why the Smithsonian told him "you can have all this stuff back" and he said, "no we don't want it because it's been on a traumatic journey, we don't know who's made it, we don't know whether it was made for sorcery reasons, or other reasons, and anyway the trauma of its journey over the last

hundred years may well contaminate the community.” So that’s very interesting, isn’t it? One’s a very political view and one’s a spiritual view (Neale 2018).

Concerns over spiritual danger are more acute when ancestral remains are being dealt with. Dr. Williams stated that while remains must come back, without question, and that reburial was a “spiritual duty” and “something spiritually strong for our area, cultures, and for ourselves,” if they were to be returned to the wrong place and the wrong people there could be “spiritual consequences from making those types of errors” (Williams 2018).

Dr. Nugent spoke about the worries of the La Perouse community over the possible return of the Gweagal shield.

There’s concern about, for the community of La Perouse, that if it’s not from there that leaves them feeling vulnerable (Nugent 2018).

And I guess the land council’s concern is a slightly different one. They’re very interested in material that comes from them but they’re very cautious about accepting material that they’re unsure about. The uncertainty proceeds any exhibition and I think you can see that in Shayne’s public statements. If you read them very closely, he never kind of makes an exclusive claim. He says it’s important for everybody. In a way, he’s giving the grounds upon which an expansive notion of return could happen but perhaps there’s frustration that he has to conduct that strategy while also having to deal with kind of other ones which are more taken up in the public domain because they appeal (Nugent 2018).

Dr. Williams did appear frustrated that the claims for the Gweagal shield seemed to ignore the scientific evidence that suggested the shield was not from Botany Bay. He related this conflict to larger issues in Indigenous politics which have seen people claiming tribal identities and cultural authority without those rights genuinely coming from the community itself.

There's a lot of cultural competition going on and Aboriginal people bring themselves up as a big cultural expert over everybody else or each other. So, these days it's really hard to believe right up front whether somebody's being genuine in what they tell you or whether they made it up. If those artifacts were taken from a tribal area where there's still a tribal area, there wouldn't be any of this stuff going on. The only dilemma that would exist would be the dilemma between the museum...Down here it's different. With no evidence to determine where it should go. The Gweagal people, the population quadrupled overnight. It did. You've got people coming out of the woodwork calling themselves Gweagal, it quadruples. And some of them are not Gweagal what-so-ever. But they don't care. They're interested in the political posturing in all of this (Williams 2018).

Similar to Dr. Neale, Williams attributed the likely cause of the politicization of culture to the loss of cultural knowledge that has occurred in New South Wales. He suggested that perhaps, for these Indigenous people, "the politics is the only thing they know" (Williams 2018).

His comment on cultural competition highlights problems of "impulsive" repatriation claims. One question is where should repatriated items go, especially when the provenance information is shallow? Dr. Williams worried that an item might not be properly cared for if it were returned. This concern was shared repeatedly in his interview. For example, he stated

There would be some that would feel that the artifacts don't belong in any museum whatsoever, so God knows where they think they should go, probably on their...room wall I would say, you know? Which is absolutely ridiculous. They don't understand that it requires a particular science to keep them preserved in pristine condition...(Williams 2018).

There would be a lot of Aboriginal people that would [be] very concerned that when artifacts come back, they might go to the big mouths who really don't have any claim to them what-so-ever, they might go to the wrong people (Williams 2018).

For Dr. Williams, this question needs to be answered before repatriation efforts can be accelerated. Again, this feeling is heightened regarding remains. He was anxious

that ancestral remains that returned to Australia would just be held in a different museum. That wouldn't help the situation because "they need to go straight back into the land that they belong" (Williams 2018). In fact, this has been the case so far for unprovenanced remains. Many of the remains returned to Australia from Edinburgh were not well documented and will remain at the NMA, the only prescribed keeping place, indefinitely unless more information can be found. Williams also thought it would be likely that returning artifacts to Australian museums would not calm people's protests, only shift the attention to a different institution.

Both Dr. Williams and Mr. Yu felt it was necessary to determine, nationwide, a process for these situations and that any decision needed to come from Indigenous Australians.

We need to answer that one and the Australian government, the state and territory governments, need to support and be responsive to whatever solution we come up with in response to that particular question, because we're the only ones that can answer that question (Williams 2018).

To minimize the disputation in the community, and any litigious approach towards ownership matters, we need to have an orderly process by which to provide provenance identification, but also looking at the physical nature of the ability of local communities to appropriately manage and store objects and material to the extent that they are not lost to the community (Yu 2019).

I want to highlight Mr. Yu's feeling that a consensus of process among Indigenous Australians would minimize "any litigious approach towards ownership matters" and perhaps reduce the political posturing and cultural competition about which Dr. Williams spoke. It is important for many Indigenous communities that protocols are followed when returning information and objects to groups of people. This is because

any return is an act of empowerment to whomever signs for it. You can artificially empower people. It's a recognition by the Australian government, the national museum of Australia, that we think this person is the right person. That's incredibly powerful. If that person isn't, or is not seen by the community, then we've just caused huge problems (Pickering 2018).

This is also why the curatorial team, though not making returns, made strong efforts to begin consultations by contacting local Aboriginal land councils and/or recognized Indigenous Heritage groups. They endeavored to work with and receive approval from individuals or groups with community recognized cultural authority before being directed to those who might like to speak about their opinions and knowledge of the objects going on display (Coates 2018). Additionally, by setting up the Indigenous Reference Group, cultural leaders from communities across the country were "appraised, and engaged intimately in key policy decisions..." (Yu 2019).

How Might Legislation Negatively Affect Repatriation Outcomes?

At many points during interviews, participants discussed their view that legal measures and legislation to govern repatriations would create challenges for repatriation work. Dr. Williams believed that aggressively approaching repatriation could backfire "because it might make it harder for places overseas to release those artifacts, even on long term loans" (2019). He felt museums would not want to get involved in issues surrounding inter-community politics and emphasized instead his "diplomatic" approach.

When I started talks with people overseas years ago, I tried to be diplomatic in my approach, because I'm fully aware that there are other countries who are making massive attempts [to get] a lot of their artifacts back from the UK as well, places like Turkey and Egypt, Greece. And I thought a diplomatic approach would be the best approach initially. They have some very strident laws in the UK. Which is what you're really dealing with and I think dealing with the British Museum and other facilities like that, you're dealing with the legislation in that Country. And

the more robust and aggressive you get, the tighter their policies and legislation will become (Williams 2018).

Dr. Neale called this method “soft diplomacy” and told me about the repatriation of ancestral remains from the Smithsonian as an example (Neale 2018).

In 2009, Dr. Neale invited Smithsonian curators to participate in the week-long symposium, *Barks, Birds and Billabongs*, which “explored the legacy of the biggest scientific expedition in Australian history” (National Museum of Australia, 2009). During the expedition, Aboriginal remains had been collected and they were now under the care of the Smithsonian. While the National Museum of the American Indian Act, legislation with similar requirements as NAGPRA but specific to the Smithsonian, had been passed, there is no American legislation that would oblige the Smithsonian to return remains outside of the United States. At the symposium, descendants of the people whose remains were now at the Smithsonian presented their story. Dr. Neale suggested to the descendants that they simply speak about how the situation made them feel rather than accuse the current Smithsonian representatives of being complicit in the traumatic collection of ancestral remains (Neale 2018).

All they did is just talk about how it felt. Just said how it feels, how it felt when we found out where our great-grandmother has gone and we had a negative attitude and we didn’t look after her and it was our job and you know that it’s far away all this talking about how it felt and I thought, that’ll work its magic (Neale 2018).

This did indeed start a conversation. One of the curators from the Smithsonian spoke with Dr. Neale after the conference about the challenges of deaccessioning at that institution. Neale expressed to her that keeping the remains would do more harm than good, not only to the descendant community but also to the museum. In the end, the

combination of seeing the effect of having family members so far from country and the perceptual shift in their usefulness for the institution resulted in the remains being returned to Australia.

She said ‘it’s really hard to get this stuff out of our institutions’ and I said, ‘Clearly it’s all going to take time...with generational shifts but really, it’s reputational damage for a whole bunch of bones that aren’t even in sets anymore. No one knows who they are or where they’re from. It seems like a big price to pay because they’re no longer ordered or organized, there’s no one there who knows anything about it, records are bad. So, it’s just a bunch of bones that have nothing but reputational damage for the Smithsonian...’ Within 10 days we got a message that they want to give back their stuff (Neale 2018).

Some participants believed that attempting to get the British Museum to move forward with a repatriation through legal means likely would not prove to be successful. Any effort to this end would involve challenging institutional policies that have been in effect for over two hundred years. Dr. Williams suggested this in his statement presented above, as did Mr. Yu and Dr. Coates.

The Board of Trustees of the British Museum is not like here [in Australia] where we have a quasi-statutory organization or a statute organization. But as I understand it, the Trustees have personal and individual responsibility and liability in respect of those objects based on the nature of the way the legislation is established for the British Museum (Yu 2019).

The British Museum has a logistical and policy setting that restricts its ability to repatriate material. We’re not in a position to change that (Coates 2018)

Having [Dr. Sculthorpe] on staff at the British Museum continues to influence the policy settings that that museum has, being mindful that there are a couple of hundred years of history and heritage that also influence those policy settings (Coates 2018)

Dr. Edmundson saw the Albany exhibition that the Menang Nungar community curated on country with the help of the British Museum and NMA as an example of the incremental changes she believed it would take to change the British Museum’s policies.

...we have to know that Gaye [Sculthorpe] and Lissant [Bolton] are individuals working within a system and they are const[rained]..., but every little step changes the nature of the British Museum and sometimes changing an institution happens in increments. It doesn't happen in massive overnight policy changes but every incremental change opens a door and I think that they've begun to see some of the positive results for their own institution of closely working with community...both kind of came forward and changed their ideas about the other which was sort of an interesting process (Edmondson 2018).

Some participants felt that “soft diplomacy” and incremental changes were a better choice to legislation because the latter doesn't always mean the majority of attitudes have changed. Legislation can force people to act contrary to their beliefs. Laws might be changed again if people's attitudes are not reflected in them. Dr. Pickering and Dr. Neale used the United States legislation, NAGPRA, as an example.

The idea of just working on the principle, on the philosophy of repatriation and goodwill has been working in Australia. That's why we've sent remains back to the U.S. because we believe it's the right thing to do. But NAGPRA forces people and there's a lot of discontent, it makes people say “we shouldn't have to do this but we do because it's law”. What good is law if it doesn't have a philosophical movement behind it? (Pickering 2018)

Look at that one you have in America and all of a sudden there's truck-loads of bloody human remains and objects that all end up outside museum doors. You have to educate people so they want to do it. Otherwise, legislation changes and it doesn't happen. So, it's got to be attitudinal, it can't be legislation. Surely there might be some room for some, but you're much better off with an attitudinal change where people are sort of afraid of being shammed or embarrassed (Neale 2018)

Dr. Pickering instead claimed “engag[ing people]in the bigger game, which is to build a relationship with communities” as the best way forward (Pickering 2018). By building such relationships, institutions may come to realize the importance of having remains and cultural items back on country for communities. They may no longer feel that being involved in negotiations over rights and ownership embroils them in a situation

in which they are always the bad-guy. Instead, they might see how working with source communities can be beneficial to them as well.

However, efforts to be as diplomatic as possible in seeking returns of ancestral remains or cultural property is not full-proof. Paradoxically, to seem “less overtly political” than when Indigenous activists started calling for repatriations, the Australian government will now request the return of remains from overseas (Pickering 2018). Dr. Pickering suggested that they had found the self-advocacy of Aboriginal people, who would “impolitely knock on people’s doors and be political” to be a bit embarrassing (2018). But governments move slowly, and the Department of the Arts, which oversees repatriations have not employed anthropologists or historians in the past. This has led to returns but with “such inadequate information that they just go down as unprovenanced” (Pickering 2018).

This insight points to another challenge of relying on legislation in repatriation cases. It is often a step or two behind what is happening on the ground and in museums. In Australia at least, based on details provided by interviewees, it has been rare that international conventions or protocols dictated to museums more progressive policy measures and codes of ethics than what they were already doing. This is largely because it was museum and heritage professionals who influenced the passage of those conventions.

Dr. Fforde and Dr. Morphy spoke about the influence that Australian museums and Australian archaeologists had in the passage of cultural property policy. The example

provided by Dr. Fforde was of friend and colleague Peter Ucko who had been Principle of what is currently the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) at the time of a politically heated debate about the return of the remains of Truganini in the 1970s. As Principal, Ucko had brought more Aboriginal people into the institute and learned from them the importance of repatriation (Fforde 2018). Ucko was later foundational in the establishment of the World Archaeological Congress, which both Dr. Fforde and Dr. Morphy pointed to as influential on repatriation issues (Fforde 2018; Morphy 2018). Dr. Morphy provided a more general statement about the role museums played in the creation of international policies.

Australian museums were really at the forefront of that process in the 20th century and there were major reports and major conferences, in particular stemming from the Australian Museum and Bob Edwards and the actual arts board. [They] were very strongly involved in the Pacific region in developing policies that, via UNESCO, became really at the forefront of the kind of rhetoric that was happening. Australia was in a very good place in the 1970s and '80s (Morphy 2018).

Dr. Morphy's statement about Australian museums supports Dr. Fforde's claim that it was "the key individuals in relationships going on in the construction of this thinking which then becomes policies" (Fforde 2018).

Dr. Pickering similarly stated that he did not perceive international dialogue on repatriation issues having much influence on the NMA's policies. He felt that

our policies were more progressive than international dialogue. We've always had our own internal policies. Then there's the Museums Australia's policies for the treatment of Indigenous objects and material culture. The Australian government, as I said, now has a policy on repatriation but that follows what museums are doing. The UNDRIP, we were already ahead of that (Pickering 2018).

The museum's policies do seem to reach further than governmental policies, which stop at remains when dealing with overseas institutions and secret sacred objects in domestic institutions (Australian Government n.d.). The museum, however, is prepared to work out claims for non-sacred cultural material.

The Gweagal shield is an interesting story, I think that it shows...this museum returns human remains, secret sacred objects, and other objects when a suitable case can be made out. We have a policy on the return of cultural [material]. It shows the intent. Now no one has ever actually used that. Although it's there and we sometimes encourage people to, you know...that would mean that if we had the Gweagal shield it would be seriously considered (Pickering 2018).

The NMA, in some ways, has gone further than other domestic museums to facilitate repatriation and recognition of Aboriginal desires.

This museum is a young museum. When it was established it was established with a recognition of Indigenous interest of rights. Our legislation states that it will have a gallery of Indigenous Australians and that shall be ideally, not mandatory, but ideally staffed by Aboriginal and Torres Strait Islander people. This museum is the only museum in Australia to have that in its legislation, that it will commit to Indigenous interests (Pickering 2018).

This commitment to Indigenous interests highlights a final reason why no participants advocated for legislation. There is a concern that a law would not provide for the flexibility the museum practitioners felt was necessary when working with Indigenous groups (Coates 2018; Pickering 2018). This flexibility is needed to accommodate the diversity among Aboriginal groups and individuals where the law is otherwise unsympathetic to "the cultural, social, political views of the receiving community" (Pickering 2018). Dr. Pickering gave the example of determining rightful descent as one of the complexities that might need to be accounted for.

You also have social genealogy, inheritance, style of rights, executives of estates and all that which would make it quite reasonable that someone other than a biological descendent, especially if there's no biological descendants left could receive something (Pickering 2018).

Can Relationship Building Be More Useful Than Repatriation?

A major question of this research has been whether repatriation is the only method to achieve the goals of repatriation. Up to this point, the data presented has largely pertained to the challenges of repatriation, which suggest that it may not always be seen as the most effective strategy for achieving the goals of Indigenous groups. Dr. Williams sums this feeling up, stating:

And that's where my interest is not in repatriation per se because I know what we're up against but getting access to the cultural knowledge embedded in those artifacts (Williams 2018).

But if not repatriation, what? Many statements made by participants in this research suggested that a focus on relationships over outright returns could be the path of least resistance. Dr. Nugent suggested that these relationships might be just one step in the repatriation process.

It's part of the process of repatriation rather than sort of an end in itself. So, just to go back to what the projects have been around, both Engaging Objects and the Relational Museum, is to really think about other models of engagement. Relationship building has been really fundamental there and the museums are very active in nourishing and nurturing different kinds of relationships between Indigenous people whether it's individuals or groups or whatever and that, this is not new, but it has a new intensity I guess (Nugent 2018).

As did Mr. Yu.

This relationship might, at a later stage see a greater sense of purpose and understanding whereby those objects might be sent back on loan, or even negotiated for eventual repatriation, subject to that community being in a position where it can adequately manage it for the benefit of the future generations (Yu 2019).

Mr. Yu felt that relationships based on guilt created an obstacle for repatriations (Yu 2019). He felt these relationships should instead be established around the “shared mutual responsibility of use and understanding the values of those objects and materials and practices for the benefit of the broader community” (Yu 2019).

The theme of sharing also came up in my interview with Dr. Neale. She compared her experience working with “senior custodians of Martu country and Anangu Pitjantjatjara Yankunytjatjara (APY) and Ngaanyatjarra lands of Australia’s Central and Western deserts” (National Museum of Australia 2020d) on the *Songlines: Tracking the Seven Sisters* exhibition with her analysis of *Encounters*. *Songlines* was an exhibition hosted by the NMA from September 2017 to February 2018. It used Indigenous ways of passing on knowledge to tell the founding narrative of the Seven Sisters Dreamline (National Museum of Australia 2020d). She saw the motivations and events of both exhibitions to be examples of the different ways people approach the issue of having their material culture in museums.

What they were saying is, “if you’re living in Australia,...if you call yourself Australian and you’re living in Australia then you need to know your stories beyond the last 240 years or you’ll never take root in this country. If you want to share this continent with us, the first Australians, then you need to know your stories and our job here is to tell you your stories. We’re here to tell you your stories so that we can all live on this continent together as Australians...[One way is through] shared history, shared issues, shared stories, [a sense that] we’re in this together (Neale 2018).

There have been two research projects that the NMA has taken part that relate repatriation and relationships. The first was called “Return, Reconcile, Renew” and looked at “various aspects of repatriation. [Such as] the relationship between repatriation

and healing and the relationship between repatriation and nation-building” (Fforde 2018). This kind of research acknowledges that the repatriation process does not end with physical return. The effects can and will hopefully be far-reaching. For that reason, there is an attitude “particularly by organizations that have had a lot of involvement in repatriation, that repatriation needs to be a social benefit” (Fforde 2018). Dr. Fforde, one of the primary researchers for “Return, Reconcile, Renew” offered some examples of the healing effects of repatriation.

There’s an intricate relationship between the living, the dead, and the country. If you fracture that connection by taking out one component of it, and in fact, the people took multiple components of it because they took country, they took children away from parents and they took away the dead. So that connection gets fractured, weakened, under threat. When the deceased are brought back, part of that connection is brought back together. The analogy that folks use in the project is around weaving. You have multiple strands that you weave together, which makes a strong basket. If you unravel it and they go separate ways, yes you still have them but they’re not brought together in a coherent whole. We’ve tried to approach our project [by thinking] about what we do as following all those strands out and to try and bring them back, to knit them together again (Fforde 2018).

When you actually do a reburial ceremonial, what you get is people coming together, being on country, and doing things [together]. Other researchers show that it is very healthy for people, it’s good for wellbeing, for people to have good connections with others, to be on country (Fforde 2018).

People do repatriation events or they go and find their ancestors in collections, they’re being very active in addressing a past wrong and people are acknowledging a past wrong happened. In some sense, you overlay a memory of dispossession and loss with a memory of success. You can tell a story about yourself which is not just that people came and took everything but they came and took everything and you went and made it better and also the people that took it, the modern representation of that acknowledged it and said sorry (Fforde 2018).

The second project, called “Restoring Dignity: Network Knowledge for Repatriation” involved “finding out where ancestral remains are in overseas institutions, in countries which are not very [well] known” (Fforde 2018). These

two research projects demonstrate ways that the NMA proactively supports reconnections between Indigenous communities and their ancestors and material culture, in addition to the physical return of those currently cared for by the museum. Curators and associated researchers continue to add to the discourse on the significance and nuance of those reconnections. They also act as a resource to begin conversations between Indigenous communities and overseas institutions (Fforde 2018).

One of the responsibilities of the museum is to establish relationships between communities and leaders of museums to “build a trust relationship and not fall back into [the] rhetorical kind of grievance processes that have driven past relationships” (Yu 2019). The relationships here are two-fold. The NMA, after working with Aboriginal communities for many years and by committing to actively listening to their needs and concerns have come to the determination that one of the ways they can serve those communities is by helping them tap into the museum to museum relationships that have been built parallel to the community to museum relationships. Dr. Pickering posed an important ethical question about the working relationship between the NMA and the British Museum.

They refuse to return remains and objects, we have a policy and commitment to returning remains and objects and we advocate for that. Is it ethical for this museum to work with the British Museum? ...Should museums work with other museums who are not adhering to industry standards? (Pickering 2018)

Based on the statements made by the participants in this research, if he were to ask his colleagues at the NMA, the answer would likely be in the affirmative. When asked whether museums have a responsibility to help communities in getting their cultural property repatriated, Dr. Coates replied that it was rather the museum’s “responsibility to help communities find out about that material and to help them be in a relationship with those institutions holding that material” (Coates 2018).

Dr. Morphy touched on the use of long-term loans as a useful method of initiating processes of reconnection and relationship building (Morphy 2018).

The British Museum is clearly oriented towards developing ways in which they can have long-term loans to communities who want to use exhibitions. When there is something like the kelp basket, which is completely unique, it is likely there will be long-term talking about co-curation of things like that and many Indigenous Australians actually do see the British Museum as a kind of location that they want to seize as a space for themselves (Morphy 2018).

My feeling is that in the long term what is going to happen is that you are going to find that there is more of a flow over time. Looking at ways in which you can develop links that bring people closer to material cultural objects that they value either in process of loans to regional museums that change over time. Such that museums themselves, large museums, have a kind of role in the whole process of linking (Morphy 2018).

You can create really active relations in having large institutions in some ways seeing themselves having a more distributed function even if the long-term conservation, curation, is going to be largely in bigger entities (Morphy 2018).

Dr. Williams additionally mentioned long-term loans as something museums could do for Indigenous communities (Williams 2018).

The *Encounters* exhibition helped facilitate relationships between the NMA, the British Museum, and Indigenous Australians that have had multiple expressions and continued beyond the life of the physical exhibition. At a fundamental level, Indigenous Australian representatives have been able to meet with the trustees of the British Museum directly (Yu 2019). Other subsequent projects have been further reaching. One of these was the Encounters Scholarship which Mr. Yu advocated for. Through this program, six Indigenous Australian young professionals

have an opportunity to work in the National Museum of Australia and to spend three or four weeks in London, visiting the National Museum, the Prince's School of Traditional Arts, Oxford, Cambridge, and various other cultural institutions....

Also filtered out into the particular areas with these young trainees or scholars have come from where they have now been able to apply with greater knowledge and experience their learnings in their own communities...(Yu 2019)

Additionally, the British Museum has been increasingly more open to Indigenous artists and historians accessing the collection (Pickering 2018).

There was also the smaller exhibition done in Albany with the Menang Nungar artifacts brought from the British Museum, which has already been described. Dr. Coates, paraphrasing Harley Coyne, a Senior Heritage Officer in the Department of Aboriginal Affairs and Menang man from Albany, said the Menang ultimately wanted the material back but could see that the exhibition “opened up an opportunity to create a contact” (2018). The Menang Nungar community was happy to participate in the exhibitions but also wanted to see the material on country. Because the NMA did not have control over the objects, they felt obligated to connect the British Museum to this community to properly address the needs of the Albany community (Coates 2018). The Albany exhibition was considered a “great success” because it showed that “it was possible for state and local institutions to have these kinds of relationships” (Edmundson 2018)

How are These Relationships Important To The Recognition Of Aboriginal Rights?

The real power behind relationships between museums and Indigenous Australians is that they are based on mutual recognition of the rights of Aboriginal people, the shared knowledge and care that both museums and communities have for museum objects, and the ability of museums to influence social consciousness. Dr. Williams notes that relationships like these have only been able to happen in relatively

recent years because Aboriginal people needed to become empowered enough to feel they would be responded to positively when they asked for access.

Only just recently have we felt empowered to ask for access... We were completely marginalized from mainstream society... It's taken us all this time to get into the rhythm of feeling empowered enough to approach museums etc. and times are changing for museums as well. We're aware of that and therefore we are quite aware that there is a possibility that a museum's response will be a positive one rather than a negative one. As before all we got was a negative one so that was all we ever expected (Williams 2018).

Dr. Pickering recognized that there has been a historic expectation of a relationship when people traded objects. This was perceived by him as influencing the ways people felt towards repatriation, as expressed during consultations for the exhibition.

Generally, everybody agreed they wanted recognition. In some places, like in Torres Strait, a lot of objects were traded with a clear intent that would be the establishment of an ongoing and reciprocal relationship. The Torres Strait Islanders are still looking for the British Museum, or the collectors from the British Museums, to reciprocate that exchange. Because you're not just giving someone an object because you like them. You're saying I want to enter into a relationship with you. So, I think that's something the British Museum lost sight of in their collections. That objects were given with free and informed consent but with the conditions of establishing a relationship (Pickering 2018).

Dr. Coates also spoke about how reciprocity can be mutually beneficial for museums and communities represented in their collections.

My nominal experience is that when institutions have repatriated things, they've actually gained. They've gained both a stronger relationship with the community that was asking for it, but often material comes back the other way so you get objects back. So, at a pragmatic level, you might actually [have] a better collection. And I also think that if you, and this isn't particular [to] the British Museum, but if you're an institution that has an open relationship with a community, they don't necessarily want the stuff back. What they want is control (Coates 2018).

Dr. Edmundson provided an anecdote for what an assertion of control other than repatriation might look like.

Dr. Joseph Gumbula was a Yolgnu scholar who, in the 80s, began to work with Howard [Morphy] and Louise Hamby on a project reconnecting to Yolgnu material from Milingimbi held in dispersed museum collections... he became interested in material relating to his clan, to his moiety and he started traveling around the world to visit these collections in museums, not because he or his family wanted the material back (he argued that his ancestors knew what they were doing) but he wanted to make sure that people knew what they were, and treated them properly, and didn't have any misinformation. He worked tirelessly during his lifetime to teach non-Yolgnu people how to respect and care for the materials that had been gifted to them by Yolgnu. (Edmundson 2018).

Though not physical control, there is a cultural authority imbedded in actions like this, a sort of “cultural ownership” (Coates 2018). Through the *Encounters* exhibition, many people and groups exerted their cultural connections to the material and Dr. Coates suggested that this may have “influenced the British Museum to think that while they hold the material...it is clearly the cultural possessions of groups beyond the British Museum” (Coates 2018). And though the NMA had no power to return objects held by the British Museum, it was suggested that the public recognition of that connection, by both museums, may strengthen any future claims (Coates 2018).

An additional measure the museums took in the recognition of aboriginal rights was the deference made to customary law and protocol. Mr. Yu emphasized that when this is not done, it stands as a great obstacle to repatriation. He stated that, in a global sense, states did not “give the due status and recognition to the first people's rights and obligations under law, customary law, to be able to manage and deal with the sensitive issues [of] repatriation” (Yu 2019). One way the museums tried to overcome this was

through the implementation of the IRG (Indigenous Reference Group), who stood to guide the National Museum Council board in “the most culturally appropriate and nuanced understandings of the importance of cultural material objects and [their importance] in contemporary interests” (Yu 2019).

One such nuance is the reality that there is no “correct person” who has rights over an object. This is “one of the impacts of colonial disruption” (Coates 2018) but also emblematic of customary law where one person may have primary rights to land and associated resources but another has secondary rights (Strang 1997). The NMA’s path forward was to “look at what the government’s arrangement is and what is recognized by most Indigenous people in that particular locality” (Coates 2018). Dr. Coates recognized that this strategy was not without its faults but was within a measure of practicality.

People will say, “well there are people who aren’t represented by that land council or who aren’t involved in that land council” and that’s true, but no one would dispute that the land council has an authority, and so sometimes you have to decide who you’re going to go with because at times there might be groups who don’t get along or whatever and so you’ve got to make a call about who you’re going to go with and that might mean that you’re not working with other groups (Coates 2018).

This statement underscores limits in the role museums have in the repatriation process. Dr. Edmundson spoke about where museum responsibility begins and ends when determining who material culture will be returned to.

I think museums need to understand what their purview is. You need to know that you’re not giving material that historically comes from one group to another group, you need to know the provenancing, but you don’t need to make those final decisions about cultural access and protocol, because it’s not your right, in my opinion. Communities, even if it’s messy, have the capacity to work it out. They’ll work it out if they want. Because you get trained this way, I think a lot of, particularly non-Indigenous, museum staff make the mistake of thinking that

they're the experts, but they're not. They've got a limited job to do and people are going to work it out. There will be inequities but each situation is different (Edmundson 2018).

Howard Morphy used Mr. Kelly's claim over the Gweagal shield as a specific example of the limited role museums play in these decisions during our interview.

In the end, when there are complexities within a community, you have to create the time and space for people to work out the solutions. The issue of individual versus group is that there's never going to be one individual who everybody says, 'absolutely, no problem whatsoever.' So you have to create the space for a number of individuals who have different views but who, in objective terms, have equal rights in relationships and so on and so forth, because none of these things are subject to any existing sort of legal status...Indigenous Australians are extremely aware of that, which is why in the case of Rodney Kelly, you'll find virtually no Indigenous Australian from that region coming out and publicly denying what he is saying even though the majority would not agree with it but there's a sense in not wanting to shame or humiliate other people. Museums have to be equally aware of that and museums are, so they don't want to come out with those kinds of things. It's really something you just have to create by being sensitive. Museums and museum curators have that kind of responsibility (Morphy 2018).

Participants felt the power to decide the fate of museum objects should belong to Indigenous Australians. Museums have a responsibility to connect people to their objects within collections and to use their perceived authority to affirm those cultural connections (Edmundson 2018). In doing so, they recognize the right of Indigenous people to dictate what should happen to them. Dr. Neale explicitly expressed this concept.

The question is who has the right to determine the future of these remains. It's not about whether science is the best thing or religious beliefs are the best thing or [if] these clash. It's about who has the right to determine their future and once you accept that it is not a museum's right...it belongs to the Indigenous community, nation, group, people, then everything else flows from that. Because repatriation is a return of that right, it's a return of that control, and it requires museums to say "Ok, these are not ours, we don't have the preeminent right to decide what should happen to them. You do. What do you want, what do you want to do?" (Neale 2018).

Part of the necessity for Indigenous people to make the decisions about the stewardship of their material culture results from a theoretical perspective that the manner of an object's significance can change over time. In these instances, something that may not have been sacred at the time of its production now is and should be treated appropriately. Participants spoke about this idea several times.

It doesn't matter whether we know that these shields were once freely traded everywhere and they were never secret sacred. If the current generation sees them as secret sacred then they are becoming secret sacred and you just have to respect that culture shifts. From a broad-based observation, it does seem to be that there is more chance of descendants saying, "no, my great-great-grandfather knew what he was doing when there's a direct lineal connection. But the further you go in time,...the more that the exchange becomes a symbolic moment and representative of a wider displacement (Edmundson 2018).

It's not uncommon for people in Australia to say "we want them back, they're sacred" and then people say the answer is "no, you can't. It's a boomerang" and they're ignoring that social process that can sanctify something in a social sense if not in a religious sense (Pickering 2018).

Drs. Edmundson, Morphy, Pickering, Nugent, and Coates applied this concept of evolving significance to the dilemmas over the Gweagal shield.

It has a huge significance. In part because of the controversy, in part because [of how] it was originally identified, in part because it brings people to mind. It has a different kind of significance (Morphy 2018).

It has become significant. *That* shield is politically, socially, culturally significant to East Coast Australian Aboriginal people and I think that maybe that's the issue of it. About how they may not see objects and the history of objects in the same way a Western-trained historian might but they're own world view is no less relevant for trying to understand Aboriginal culture or any culture (Pickering 2018).

It's a secular object that over time has become historically significant. And that's a gap that's often missing in how you assess an object. People still refer to objects as just secular and therefore humdrum and not suitable for repatriation. Ignoring

that over time that object has become socially and historically significant to people (Pickering 2018).

In terms of the Gweagal shield, it's not really about the shield, it's not really about that person, it's about the shield now stands for something so much bigger and it's become its own emotional touchstone. It's almost in some ways as if the exact facts are, certainly emotionally, less than the impact of the effect currently of this shield, which is now representing so much pain (Edmundson 2018).

I think it shows how powerful these objects in museums can be and how dynamic they remain. There's a paradox in that while the physicality of the object remains stable, the meanings we attribute to them over time can change... It's an extraordinary example of where the physicality of the object continues to be interrogated, what it's made of, what the hole is, what could have caused the hole, who was there on the beach, all that sort of thing continues to be up for negotiation..., which feeds into different narratives coming out of it (Coates 2018).

It functions in a symbolic way... It encapsulates something very powerful within the discourse about the nature of that encounter [with Cook]...in which questions of who's responsible, who's the victim, where the violence lies, and how can we work through that, the shield has a great sense of resonance...If that is strong enough for everyone to agree [that] should be the basis of its return, it's of that kind and it's a great proxy and it may still turn out that we find evidence to place it there, it's a strong case for it being a significant object (Nugent 2018).

If It Is Not a Museum's Responsibility To Determine The Future Of Objects In Their Collections, What Is Their Role?

As noted before, Dr. Morphy felt that it was a museum's prerogative to create the time and space for communities to work out internal conflicts over the fate of their material culture that are currently held within museum walls. He commented as well on the expectation that museums "give people the opportunity to express their feelings about injustices and rights" to those outside of their community (Morphy 2018). This was seconded by Dr. Nugent's observation that exhibitions and museums are increasingly

used “as public spaces for articulations of claims and identity on the nation-state and more broadly” (Nugent 2018).

The *Encounters* and *Enduring Civilization* exhibitions were likewise held to this standard. Drs. Coates and Nugent spoke about using the exhibitions to let Indigenous people communicate to non-Indigenous visitors the complexity of the issues which their material culture symbolizes.

My role was to facilitate...voices to come through in the exhibition and in a sense for the visitor to make up their own mind around the material[‘s ownership]...I think it is interesting the kind of activity that [the shield] continues to be a catalyst for (Coates 2018).

One of the things that we’ve been trying to do is listen very much to what different groups or individuals with an interest in the same object have to say because what we think is that there are a plurality of views among Aboriginal people about all sorts of matters...Some people [say] it will happen but we need to go slowly, others are [saying] we need this stuff back now... and others [are] saying...this stuff’s actually got a lot to tell British people because, in fact, they’re not taking responsibility for their own past and that’s sort of the source [of these issues](Nugent 2018).

Dr. Coates hoped visitors would see objects with difficult histories and consider:

I’m looking at this in 2016 and I’m implicated in looking at that object that still survives. What’s my role as a non-Indigenous Australian knowing that there are people, Indigenous Australians, that still carry that moment as part of their identity and yet we haven’t resolved it, we’ve never, as a nation recognized it (Coates 2018).

As demonstrated earlier in this chapter, Dr. Williams was concerned that significant artifacts would not be properly cared for outside of museum environments. Museums still have an important role to play in the preservation of heritage but their methods should be informed by their recognition of Indigenous control over their material culture. Some projects the participants have been involved with, both through

the NMA and beyond, are examples of what culturally informed preservation might look like. Dr. Neale described the drive behind the *Songlines* exhibition, touched on previously.

This started as a consequence of a number of elders from central Australia [who] had, for a couple of decades or more, been worrying about the loss of culture, the songlines, which are like corridors of knowledge [that] criss-cross the continent, embedded in the land through stories, and activated orally and performatively... What was being said was, “our songlines have all been broken up and we need you to help us put them together again... So we wanted to set up a preservation archive that tracked the Seven Sisters songline as much as we could. They would be preserved in recordings and film and artworks and then that would go into an archive in Alice Springs which is an aboriginal managed archive. It’s another take on returning. That archive is about returning materials digitally to communities (Neale 2018).

Dr. Morphy and Dr. Edmunson both spoke about their projects with the Yolgnu which also involved digital returns.

In the 1970s there was the Australian council that set up an Aboriginal children’s history of Australia project. They collected thousands of drawings and paintings from Indigenous students right across Australia and they’re all now in the NMA. The community I’m working with, in northeast Arnhem land, there are some 300 children’s drawings from that period of time in the collections, and the community is now linking in with the NMA in projects that’s going to enable them to create their own exhibition of some of those in the community cultural center museum that will then hopefully be exhibited with other community things in a co-curated exhibition at the NMA (Morphy 2018).

Until recently, the focus was always on the object as opposed to things like photographs. That’s beginning to change as people have been working with communities and have begun to understand how important these archival records are as another form of return (Edmundson 2018).

Some film of a ceremony Howard made in 1973 will then turn up in a hip-hop video. They’re less interested in it to reinforce ceremonies, they’re interested in it to make video installations, artworks, music video clips. This material is actually being used about the future and not the past and it is absolutely used in different ways which are part of contemporary youth culture, about expressing pride in being Yolngu. As a very vibrant cultural expression, it’s great. That’s what it

should be. It shouldn't be about putting the past under glass. It doesn't mean they have more value because healing has value and dealing with the past has value but I think that there are different aspects (Edmundson 2018).

Finally, Both Dr. Williams and Mr. Yu also saw the potential for museum involvement in heritage preservation projects outside of questions over material culture stewardship.

Museums could work with us to put in place, not just cultural programs, but cultural emersion programs for the public. So the public can actually experience the culture, not just come out to observe it (Williams 2018).

You have a major public facility, [where] cultural education...would be a key strategy in educating the wider population, not just about Aboriginal culture [but] the controversies that surround artifacts in museums as well (Williams 2018).

I'd like to see greater investment by museums to training up people into providing support services in the regions and in the communities. To learn the technical skills so that they can [have] a great sense of storytelling, and documentation, and data collection, and representation of that material. Aboriginal people in the communities who can then use that to build on their careers, be they photographers, cartographers, archival researchers, librarians, exhibition developers, people to do curatorial work in their local communities (Yu 2019).

These statements by Dr. Williams and Mr. Yu begin to address how the concept of return can mean a multitude of actions and each can be of varying worth to different people and groups. In the end, what is returned is a relationship with heritage and "if you look at heritage as the relationship it has with people, not as a thing, then lots of other interesting things flow" (Fforde 2018). *Encounters* is just one of the NMA's projects which can be understood as a form of return while no physical object changed custody

Chapter Five: Discussion and Conclusion

Sometimes, perhaps only rarely, such an exhibition can change how the conversation about relationships between Indigenous people, museums, and collections is conducted. *Maria Nugent, Forty Millenia of Indigenous History at the British Museum*

Repatriation can be defined in two ways, what it *is* and what it is *about*.

Repatriation *is* the physical return and complete transfer of control of ancestral remains and/or cultural material from a collecting institution to a home community. Repatriation is *about* the recognition of Indigenous rights in Western and customary law. It is *about* reconnecting with ancestors and (re)learning traditional practices and crafts through the objects they produced. It is *about* challenging one narrative of only loss, invisibility, and dispossession with the stories and vantage points that reveal resistance, agency, and a shared history.

These repatriation goals are not necessarily achieved at the moment of return but in the conversations leading up to that point. Nor must these processes conclude with return. The effects of repatriation can continue into the future by maintaining and strengthening the relationships built between Indigenous and non-Indigenous stakeholders throughout the repatriation process. Therefore, while the curators of *Encounters* steadfastly saw the exhibition as one not about repatriation, I

argue that indeed it was. It may not have resulted in a physical return as of yet but in the conversations among the multiple stakeholders of the British Museum's Indigenous Australian and Torres Strait Islander collection, one can see the objectives of repatriation being negotiated and even achieved. Moreover, the exhibition is an example of the kind of "soft diplomacy" that multiple participants of this research envisioned as the most effective means of achieving repatriation. Dr. Neale used the phrase "soft diplomacy" in my interview with her as a variation on "soft power," a term coined by Joseph Nye in 1990. Soft power is defined as "the ability to influence behavior using persuasion, attraction, or agenda-setting" (Lord and Blankenberg 2015,9). As patrons of "artists and thinkers" museums can "amplify civic discourse and accelerate cultural change" through soft power (2015, 20).

Maria Nugent and Rosanne Kennedy conclude their piece entitled "Scale of Memory: Reflections on an Emerging Concept" with the questions of "what would responsibility look like in reference to a wider framework of law, one that meaningfully engaged with the Aboriginal sovereignties and laws operating on this land, but not yet recognized by the state" (Kennedy and Nugent 2016, 74). The NMA clearly lays out what they believe to be their responsibilities in the museum document "Indigenous Cultural Rights and Engagement Principles," which was brought to my attention by Dr. Coates during our interview. The eleven principles are as follows:

- 1) Recognition and respect of Indigenous cultural rights
- 2) Involving Indigenous stakeholders
- 3) Consultation
- 4) Informed Consent
- 5) Interpretation, authenticity and integrity
- 6) Acknowledging cultural and customary laws for secret and sacred, privacy and representations of deceased people
- 7) Acknowledgement
- 8) Sharing benefits
- 9) Recognizing, maintaining and strengthening Indigenous

culture 10) Recognition of ongoing rights 11) A timely, transparent and respectful process for responding to feedback (National Museum of Australia 2015a).

Principles 1, 8, 9, and 10 will be considered in further detail for their particular relevance to this research.

Principle 1, Recognition and respect of Indigenous cultural rights is informed by Articles 12 and 31 of the United Nations Declaration on the Rights of Indigenous Peoples and specifically recognizes that the rights over Indigenous cultural and intellectual properties lie with Indigenous people (National Museum of Australia 2015a, 6). These are rights to access, control, and maintain their cultural heritage (National Museum of Australia 2015b, 7). Principle 8, Sharing benefits, supports the right of Indigenous people to “benefit from the use of their cultural heritage” (National Museum of Australia 2015a, 18). Benefits can be financial, professional, educational, and cultural. Principle 9, Recognizing, maintaining and strengthening Indigenous culture, is the recognition that “Indigenous cultures are varied, thriving and constantly evolving,” a commitment by the museum to provide current and future generations with access to material held in the collection, and to create a diverse collection that reflects the way cultures grow and shift (National Museum of Australia 2015a, 19). Principle 10, Recognition of ongoing rights, is the recognition that these rights over cultural and intellectual property are perpetual and that the museum is obliged to continually engage with Indigenous stakeholders to ensure that all principles are met into the future (National Museum of Australia 2015a, 21).

It was important to the development of *Encounters* that a set of principles guided the process rather than a strict set of rules. Howard Morphy critiques the tendency to follow generalized protocols when working with Indigenous groups in his chapter for *Museum Processes* entitled “Open Access versus the Culture of Protocols” (Morphy 2015a). Protocols in and of themselves are often well-intentioned and put into place out of a sense of respect and diplomacy, as “an acknowledgment of people’s rights and authority over their own domain,” and are necessary for peoples of different cultures and governances to come to agreements (Morphy 2015a, 91). The problems with protocols, he argues, lie in the diversity amongst Indigenous Australian society and the “danger of building on a dualistic opposition between Indigenous and non-Indigenous Australians, encouraging the idea that one set of protocols will apply to all Indigenous Australians” (Morphy 2015a, 91). The solution, both for Dr. Morphy’s work with the Yolngu and the NMA consultations, was to have the communities control the process (Morphy 2015a, Coates 2018). Laid out in the above principles themselves is the understanding that Indigenous culture is “varied...and constantly evolving” (NMA 2015a, 19). For this reason, the flexibility imbedded in a principle, which describes the obligations but not the means for achieving those obligations, provided the museum with the ability to respond to the differences amongst the communities they worked with (Coates 2018). This was especially necessary for an exhibition that worked with communities dispersed across the whole of the Australian continent and Torres Strait Islands.

The word *control* stands out in remarks made by participants about what Indigenous Australians were seeking through their involvement with the exhibition.

Laurajane Smith argues for the word control over ownership in questions about rights over material culture because the claims made by Indigenous people to control the physical representations of their past amounts to more than disagreements over ownership. The larger issue at stake is who has the power to define the identity of a group or community (Smith 2006, 35). When that issue is simplified to issues of ownership and possession, it opens up to regulation the even more complex question of identity politics (Smith 2006, 52). Dr. Neale suggested in her interview that this issue of identity is perhaps one reason people on the east coast of Australia might be more inclined to seek repatriation than people in other parts of the country. On the east, where earlier and greater colonization occurred, people might feel more disconnected from their ancestors and objects in museums represent the “whole suite of things that were taken” (Neale 2018). Getting pre-colonial objects back helps to bridge a gap between one’s ancestors and oneself (Krmptich 2014). In areas less markedly impacted by colonization, where traditional objects are largely still produced, repatriation may feel less urgent. The identity politics for these communities are more about the “moral right” to be recognized as the original producers. There is emphasis on the concept that the objects are more meaningful in their relationships to their source communities, the people who maintain the stories (Pickering 2018, Woods 2015). Morphy also comments on the need to approach engagement differently with communities who experienced colonialism differently, saying that at times, the concept of “source community” may be problematic, as “local connections may be highly contested and integrating past practices and values

may be problematic in a world that has transformed since the works were originally produced (Morphy 2017, 875).

Still, as identified by Cara Krmpotich, a renewed relationship with the material culture of one's ancestors gives people the power to change the narrative of their past. In her example, the Haida Gwaii, having successfully brought their ancestors home, altered a narrative of loss and guilt for not being able to care for their kin to one of fulfilling their kinship obligations and renewed pride in the Haida culture (Krmpotich 2014). *Encounters* created a space where participants could take control of their narratives in multiple ways. Indigenous people challenged perceptions that to be authentically Aboriginal requires a certain way of life that has changed little throughout history. The exhibition was a tool for this because it affirmed the cultural authority contemporary people had over the historic items on display. By creating the space for those conversations, Principle 9, recognizing that Indigenous culture is constantly evolving, was upheld. Secondly, Indigenous people challenged narratives of colonialism through their stories, roused by re-encountering their objects and creating the opportunity for non-Indigenous visitors to engage with those stories they may have been unaware of otherwise. The interpretation of the Gweagal shield is an example of this. To many non-Indigenous Australians, the shield is a symbol of Cook's intrepidity and the founding of Australia. In the version often told by settlers, the Australian men who dropped their weapons and retreated from the beach demonstrated that they did not own the land because they did not protect it. Indigenous people see the same events very differently. Taken from the exhibition catalog is a comment from Garry Ardler, Dharawal:

The La Perouse Aboriginal community, on the shores of Botany Bay, is where the white man first landed. And over 230 years we are still here in our community...I'm passionate about my people and about my community, and the issues that involve our community...If we are able to tell our story, it will all help to maybe mend a bit of the hurt, help with a part of the healing of our people, especially from La Perouse, which as we know is the first contact from Captain Cook who came in here...and we're still here (National Museum of Australia 2015, 50).

The story of Cook's landing and encounter with the Gweagal people re-presented in *Encounters* was a narrative of resistance, of a link to land, and a missed chance for communication (Williams 2014, Ingray 2015, O'Brien 2015, Nugent 2008a). Dr. Williams was quoted in the catalog as saying

What it reminds me of is Aboriginal resistance. And not just resistance back then, but resistance to the destruction of our culture right up until now...that we're continuing to resist the infringements and impacts and the decimation of our cultures and our identities. I feel it's going to be a great source of pride for a lot of Aboriginal people...(National Museum of Australia 2015, 50).

Again, Principle 1 was based on Articles 12 and 31 of UNDRIP. Article 31 of UNDRIP states that "Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions" (National Museum of Australia 2015a, 5). Often, the ability to do so requires access to the material culture currently overseen by museums. Many of the consultants for the exhibition, such as Harley Coyne and Shayne Williams, spoke about the need to reconnect with the artifacts in order to learn from the knowledge embedded in them and continue to pass it on to their young people and future generations. Others similarly referred to their cultural material as a "cultural reminder," (Goldsmith 2015) "the link between then and today"(Coyne 2015) and from where "conversation and education flows" (Goldsmith 2015). Repatriation of such objects is thus more about the return of

knowledge than the object itself. Some participants saw repatriation as the best means for attaining that renewed access while others saw the exhibition as a means to that same end.

Acknowledgement of the significance of objects to the maintenance and development of cultural expressions is visible in Dr. Coates' statement that one thing *Encounters* wanted to address were the ways in which cultural heritage, including the objects in the exhibition, feed into people's attachment to land, family, and aspirations for the future (Coates 2018). This statement supports the arguments made by Laurajane Smith and Cressida Fforde that heritage has much less to do with the past than it does with the present and the future. To use heritage is to "remember and reassess the past in terms of the social, cultural, and political needs of the present. It is thus simultaneously about change and continuity" (Smith 2006, 83, Fforde 2002).

Concern for the future is present in Dr. Williams' statements about utilizing the preservation techniques of museums. There is a cognizance that while something, in its original context, may not have been intended to last for centuries into the future, it has since been found useful in totally new ways for contemporary Aboriginal people. This would lead one to believe that future generations may yet unlock other meanings from these items, which have not occurred to those engaged with them now (Morphy 2017). Objects, though "heavy with history, remain open to interpretation and meaning-making as [they] continue to travel through time and across space" (Nugent & Sculthorpe 2018, 29). This was why the Yolgnu, whom Howard Morphy worked with on a digital repatriation project (among many other projects), preferred maximum access but the

flexibility to alter restrictions as the community saw fit over time (Morphy 2015) and may be why Dr. Williams was nervous about the Gweagal shield being removed from the preservation methods of a museum environment.

Great emphasis was made by participants on the importance of doing thorough provenance work before moving forward with repatriation because they recognized the empowerment that comes with it. Take the materials research requested by the La Perouse Land Council via Dr. Williams. In our interview, Dr. Coates mentioned that there was only a small expectation that consultations would garner new information about the material to be displayed. Museum curators would be more knowledgeable about the artifacts because of the long-term separation of people and objects. However, from the outset of consultations, Dr. Williams was suspicious about the origin story of the Gweagal shield because of his deep knowledge of local materials and the traditional practices of the Sydney region. In calling attention to these suspicions, by recognizing that something was not from his country, he asserted his identity as a Dharawal elder whose cultural knowledge is more than what a museum can tell him. By challenging the association of the Gweagal shield with Cook, Williams diplomatically disputes claims that would have the shield returned to Australia on the basis of lineal descent to the Australian men on the beach in 1720. He suggested that some claims made to Dharawal identity amounted to political posturing, made possible because of cultural upheaval caused by colonization (Williams 2018).

Objects are useful for such purposes as renewing cultural productions, history-making, and political positioning because of the way meaning becomes attached to them.

For this, we return to object biographies and the concept of the object as an assemblage, using the Gweagal shield as an example. An assemblage is the cumulative relationship between human and material, where the total cannot be reduced to its parts (Van Dyke 2015, 12). The relationship people have with the shield today cannot be removed from their relationship to the historic events which brought it into their lives. The shield then, “is a particular kind of assemblage created within and through institutions, trees, travel, violence, utility and intention” (Schlunke 2013, 18). Dr. Nugent and Dr. Sculthorpe refer to the shield as a sticky object, one in which “attention is directed and drawn and to which ideas, values, and feelings attach” (Nugent & Sculthorpe 2018, 30). In this way, the shield is particularly positioned to be meaningful in diverse ways as it travels through time, all the while building on what it is an assemblage of. It “connects the tree from which it was made, the Indigenous hands that shaped and then used it, the rock, marsh and air it moved along at Botany Bay, to the hands that picked it up, stored it, sold it and finally displayed it” (Schlunke 2013, 27). As a colonial object, the shield “confirms but repudiates colonialism, resists it and continues beyond it” (Schlunke 2013, 18).

When one engages with the materiality of the shield, with the bark that was carefully pulled from a tree in a manner that kept the tree alive, its indigeneity calls one into the relationship Aboriginal people have with country and asks non-Indigenous people to respond. It is “an enunciation of how to live together in and not simply on land” (Schlunke 2013, 26). While responding to the production and the utilitarian purpose of a shield, one must then analyze the event of its fateful taking by Cook. The shield was one part of the resources of the Gweagal clan, part of the “place, people and pasts that lay

within the two men” on the beach (Schlunke 2013, 25). Its use in April 1720 was in defense of their land and if they were defending their country, Cook and his men were invading (Schlunke 2013). This perspective reveals the stories of annexation and *terra nullius* as colonial inventions but also “things that have their own effects in our contemporary moment” (Schlunke 2013, 25). How one remembers and represents the events which resulted in the collection of the shield and responds to its life since is evocative of one’s political position regarding “the ongoing times of the community of origin of the taken artifact and their capacity to exist in and change the time and meaning of the time around them” (Schlunke 2013, 26).

We see in objects the ability to continuously take on new meanings and effect the world even while remaining in a museum. The re-circulation of the remains of the past in contemporary contexts, through repatriation or increased access, fosters “cultural production, political positioning, and claim-making” (Nugent and Sculthorpe 2018, 30). As knowledge of the museum, as market, increases, individuals and communities have a greater ability to negotiate diversions. This signals a change in how museum objects are valued and demonstrates a shift in political power. But while it has been argued that objects in museums have been entirely removed from their commodification potential and therefore from their social lives, museums do in fact maintain the commodity value of an object. It is just one that is of a uniquely high value, both monetarily and symbolically. By negotiating their engagement with the Australian collection through loans, exhibition, research, and community partnerships, Indigenous Australians, aided by the NMA, have increased the circulation of items like the shield, a type of diversion

from a traditional museum standpoint, thereby creating more contexts for “cultural production, political positioning, and claim-making” (Nugent & Sculthorpe 2018, 30). The shield’s continued inclusion in the British Museum collection compels regular dialogue around the control of Indigenous material culture so that stakeholders continuously negotiate their power through the shield.

This brings us to the point of Indigenous agency. Howard Morphy argues that while there has indeed been a history of dispossession and cultural violence one must not underestimate the purposefulness with which Indigenous people entered into relationships with European settlers (Morphy 2015b). This includes participating in an encounter that resulted in the selling or giving of a material good which later ended up in a museum collection. An emphasis on dispossession and destruction can only go so far. It ignores the cases where Indigenous Australians engaged with colonizers “to persuade them of the value of their own civilization and to seek redress for the destruction of their rights and freedoms” (Nugent 2015b). When the assumption is made that a museum collection was formed only with colonial motivations in mind and consistently involved taking advantage of disparate power relations, one takes a presentist view. Morphy critiques this view as one that

Provide[s] a block to understanding the complexity of historical processes because they impose a uniformitarian view on the past and fail to account for people’s agency in working towards a future which at the time they could only partly imagine. We make assumptions about the motivations of the producers and collectors on the basis of what we know happened subsequent to their time; we distance them from ourselves without understanding the role they played in the process of change that led to where we are now (Morphy 2015b, 3)

Dr. Edmundson similarly argues that historically, humans were not any less intuitive or capable than they are presently. People had justifiable reasons to decide to trade an object (Edmundson 2018). Dr. Pickering suggests something similar when he states that there were expectations of a reciprocal relationship between Aboriginal producers and museums when items were traded. Their descendants expect the museums to finally engage in that relationship (Pickering 2018).

Morphy's critique extends to evaluations of exhibitions of Indigenous material which fail to analyze Indigenous participation in museum processes as something Indigenous. One such critique of *Encounters* was that its related initiatives, of trainings and opportunities to develop community exhibits, were "tainted by the 'imported cultural heritage model- an embodiment and perpetuation of the colonization of cultural representation'"(Morphy 2017, 876). This assumes that Indigenous heritage professionals are unable to make an impact on museums (Morphy 2017, 876). It harkens back to traditional anthropological definitions of indigeneity that perceive cross-cultural influences to be corrupting rather than the dynamics of culture in the real world (Neale 2014, 295). Dr. Neale argues instead that, from the Indigenous perspective, participating in spaces once denied them is a practice of post-colonialism (Neale 2005, 496).

Colonialism was not experienced in the same way across Australia geographically or temporally. A multivocal past avoids the generalization that all Indigenous people were victims in their encounters with non-Indigenous people. Indigenous Australians have, since the first moment of European contact, been trying to achieve a partnership with Europeans. Maria Nugent offers an analysis of the first encounter between Cook and

the Gweagal men that takes the story even further than resistance. She argues that leaving the beach was part of a ritualized protocol of “avoidance, nonchalance, repulsion, and retreat” (Nugent 2008b, 201). The men were attempting to get the newcomers to follow cultural protocols of waiting to be invited onto Gweagal land, indicating that they respected Gweagal rights to country (Nugent 2008b). One could extrapolate from this version of the story that there could have been room for a shared presence in Australia had that relationship started on the beach. Statements from interview participants presented in this paper suggest that some Indigenous Australians want Indigenous and non-Indigenous Australians to understand their shared history on the continent. They want recognition of their traditional and continuing rights to country and recognition that they are the original stewards of the land and therefore have cultural authority over many of its stories.

Positive relationships with settlers are not prevented by the recognition of these rights. Rather the two support each other. We saw this expressed by Dr. Neale in her reflections on her experience with the *Seven Sisters Songlines* exhibition. Coming to an understanding of the shared history of Australia is seen by some as a prerequisite for the eventual return of Aboriginal material culture. June Oscar, a Bunuba woman, was a keynote speaker at the “New Encounters” conference which followed the exhibition. She has asserted that “objects in the British Museum will return home when we have learnt from our mixed heritage and accepted our equal Indigenous and non-Indigenous nationhood” (Quoted in Nugent 2015b). This is paralleled by a statement from Peter Yu, that a continued relationship would

encourage the meaningful dialogue necessary for a more equitable and balanced partnership between museum institutions and First Peoples. Only then can we respond and appropriately meet the legitimate aspirations of Indigenous people for their ancestral property, while at the same time, better defining the responsibilities of cultural institutions and their relationships with Indigenous people (Yu 2015, 34).

Katherine Lambert-Pennington found through her experience of a reburial that relying on the exceptionalism of Indigenous culture to repair the structural inequalities between Indigenous and non-Indigenous society less effective than when a relationship exists between the two. Out of those relationships, empathy grows between the groups and people are less likely to be pitted against each other (Lambert-Pennington 2007, 321). By engaging with shared histories, *Encounters* has played a role in moving the process of repatriation and reconciliation. The exhibition was described as a “portal for more informed understandings of the historical truths of first contact, enabling serious questioning of the relationship between first peoples and cultural institutions in the 21st century” (Yu 2015, 11) because of its “use of cultural and historical objects as the basis for greater learning and enlightenment in the ongoing quest for common ground” (Yu 2015, 11).

Because of the importance of these relationships to achieve the goals of Indigenous people, a go-slow approach was taken by many of the interviewees. Defenses get put up when an institution feels attacked. Attitudinal changes over time were felt to have the most long-lasting effects. Questions were posed about the ethics of the NMA, a museum that is very amenable to repatriation requests and was built on principles of Indigenous recognition, working with the British Museum, an institution with uncomfortable ties to colonialism and one that is infamous for putting up roadblocks to

repatriations. In the end, a decision was made that it was the NMAs responsibility to help communities find out where their ancestral property was and to assist them in reconnecting to that material to the best of their ability. By moving forward with the exhibition, stronger relationships between Australian communities and the British Museum exist. For example, the La Perouse community continues to work with the British Museum after developing a relationship with the institution through *Encounters*. The Encounters Fellowship continues to connect remote and regional community cultural practitioners to international museum collections and build networks between those communities and cultural institutions both domestically and internationally (Encounters Fellowship 2020).

There was also a hope that by directly connecting the British Museum to the Australian communities, the museum would be more receptive to Aboriginal concerns. British decision-makers would witness powerful demonstrations of cultural authority, which still exists over objects that have been separated from the communities for decades or centuries. Margo Neale had seen similar events unfold when Smithsonian decision-makers had an opportunity to hear from the descendants of Australians whose remains were taken to America during the 1948 Arnhem Land expedition (Neale 2018). The NMA and *Encounters* can be seen as catalysts and mediators for attitudinal changes in the British Museum and elsewhere.

Participants perceived a method of “soft diplomacy” as being more promising than the alternative of litigation for multiple reasons. Litigation poses the risk of making permanent decisions and setting precedents that are disadvantageous to both claimant

groups and museums (Pickering 2012). If a claimant group loses a case, they may not have recourse in the future to affect that decision. On the other hand, if an institution does not support repatriation currently, demonstrations like *Encounters* and personnel changes over time may change institutional attitudes in the future. When repatriation decisions are made through litigation, one group will inevitably not get the outcome they desire (Renold 2015). Undesirable decisions may create animosity among stakeholders, limiting the opportunities to create the relationships and outcomes discussed above. It has also been demonstrated that Western property law and concepts of ownership, through which any litigation would be processed, do not accommodate many of the ways Indigenous people relate to and are obligated to their material culture. Cultural property conventions, though well-meaning, are “commonly poorly informed by the realities of practice” and “at the end of the day, when the squabbling starts,... are not worth the paper they’re printed on” (Pickering 2020). Mature discussions and a go-slow approach take into account the sensitive and problematic nature of repatriation and require an equally sensitive and critical path (Yu 2015, 34).

Conclusion

This research project began with four questions. How do the different institutional policies of the British Museum and National Museum of Australia influence the debate over the fate of the Gweagal shield? In what manner is material culture significant to museums and source communities? What is the role of historic material culture in the contemporary preservation of heritage amongst Indigenous people? Can the relationships built through *Encounters* be just as important as the physical return of objects? These

questions were answered through a process of literature review, semi-structured interviews in Australia, and the secondary analysis of filmed interviews and conference transcripts made available through the National Museum of Australia.

Museums are social institutions. The projects, methods, and epistemologies circulating within them are reflections of the wider social world of which they are a part. A comparison of the British Museum's and the National Museum of Australia's policies are thus revealing of the cultural discourses dominant at the time of their founding and which continue to guide the way the heritage professionals who represent them engage with emerging discourses. The British Museum was established during an age of newly emerging scientific fields that were attempting to understand the world through systems of classification and hierarchy. The museum was simultaneously established by a nation that had built an immense empire with reached throughout the globe. They endeavored to become a museum "of humankind for humankind" and maintain that their value as an institution comes from their ability to place the world's cultures, through their objects, side by side so that visitors can learn about, understand, and appreciate people different from themselves.

The Act which established the National Museum of Australia, on the other hand, was adopted at a time when there was great change in the way museums were perceived. The 1970s and 80s saw the critical analysis of museums as institutions of social influence that had been complicit in the unethical dispossession of Indigenous people around the globe and the subsequent representation of those people in ways that aided in their subjugation. At the same time, Indigenous activists were winning the recognition of their

rights to their traditional lands, to practice their religions, and to dictate their futures. Written into the new museum's foundational policy, reflecting an awareness of this challenging past and hopeful future, was recognition of Indigenous rights to use and benefit from their cultural heritage.

These two museums with divergent origin stories hosted an exhibition of Indigenous Australian material culture, at the conclusion of which, a claim was made for the return of one of the oldest and perhaps one of the most symbolic artifacts in the British Museum's Australian collection. The Gweagal shield is legally owned by the British Museum, and it currently does not seem as though they will deaccession the shield and return it to Australia. Indigenous Australians, however, have for the most part experienced a positive relationship with the National Museum of Australia and know that it is possible to have a mutually beneficial policy in place that recognizes the rights of Indigenous people and allows museums to fulfill their role as cultural educators.

I believe that participants in the *Encounters* exhibition see opportunities in a sort of combination of both museums' policies which would support the work culturally significant objects do in the preservation of heritage. This perspective has made some hesitant towards a rush for repatriation of the shield. The opportunity for non-Indigenous people from around the world to engage with the complex issues of the shield is valuable to Indigenous Australians who are striving for larger recognition of histories not traditionally told about Aboriginal and settler encounters. These overshadowed stories acknowledge their connection to country and their continued resistance to colonialism. Some might even offer hints at ways for Indigenous and non-Indigenous people to move

forward as they continue to share space in Australia. But Indigenous Australians also maintain the right to connect with their material heritage so that they might renew and continue traditional practices and reengage with the cultural knowledge embedded in their objects. By creating and strengthening relationships with a museum so that access is maintained and cultural perspectives are respected while the museum continues to care for the object accomplishes both aspirations. It was demonstrated in this study that the physical object was not necessarily the objective of repatriation efforts. Rather, it was access to the knowledge embedded in it. If comprehensive access can be facilitated so that source communities maintain their connection to and control of their heritage, museums will continue to be relevant and useful institutions into the future.

Participants in this research were advocates for soft diplomacy over legislation or litigation as a path forward for repatriations. They saw relationships that existed between Indigenous communities and museums as a powerful method for demonstrating the importance of material being connected to its original people. The relationships between the British Museum, the NMA, and Indigenous Australians that were established during the development of *Encounters* continue to grow. Six fellows participated in the Encounters Fellowship in 2019 (National Museum of Australia 2020b). In 2018, a Memorandum of Understanding (MoU) was signed by the NMA and British Museum and confirms that further loans will be brought from England to Australia over the next five years (National Museum of Australia 2018). Built into the MoU is a statement that “projects will include engagement with the relevant Aboriginal communities and researchers (2018) Additionally, the MoU reports that it was the *Encounters* exhibition

which “demonstrated that together the two institutions can tackle important issues which resonate in Australia and abroad” (National Museum of Australia 2018). Also in 2018, the British Museum announced they would be devoting more gallery space to Indigenous Australia (Morphy 2018).

As for the Gweagal shield, it has been returned to its display case in the British Museum’s Enlightenment gallery after the completion of the research requested by the La Perouse Land Council. Mr. Rodney Kelly was invited in May 2019 to investigate the shield and continues to advocate for its repatriation, participating in an activist-led tour of “stolen goods” which dually protested the British Museum's continued acceptance of BP oil’s financial support (Brennan 2019, Polonsky 2019). He was quoted in a recent article by ABC News as saying “the significance to our culture far outweighs any visitors who come here and just stroll past the shield without really knowing the history of it” (quoted in Brennan 2019). Australian governmental support may come in the near future. With government funding, the Australian Institute for Aboriginal and Torres Strait Islander Studies will be running a pilot of the “Return of Cultural Heritage” project until June 2020. This project aims to “intensify the effort to return material held overseas back to Country for the purpose of cultural revitalization” (AITSIS 2019). One aspect of the project, to aid in the intensification of repatriation efforts, is to “build relationships between overseas collecting institutions and Aboriginal and Torres Strait Islander communities” (AITSIS 2019).

Future Research

One topic which came up a number of times during interviews but was regrettably outside of the scope of this project, was the need to investigate the role media coverage has played in the debate over the shield. If one runs a quick google search of “Gweagal shield” or “Australian shield” the majority of the results are articles from newspapers and magazines about the looting of Australian artifacts and the stubbornness of the British Museum in not acquiescing to these demands of repatriation. One of my early questions when embarking on this research was whether repatriation legislation, intended as an aid for those seeking returns, helps or hurts the overall process. A similarly interesting question might be whether media coverage that focuses on the politically exciting notion of stolen goods over the nuanced processes that happen before repatriation or the instances when people are happy to have their ancestor’s artifacts remain in museums are indeed helping the cause. To repeat a quote by Peter Yu, “a mature discussion would appreciate that repatriation is sensitive and problematic” (Yu 2015, 34).

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Appendix A: Participant List

| Participant | Title | Role in <i>Encounters</i> and/or Research |
|-----------------------|---|--|
| Dr. Ian Coates | Lead of the Shared Histories Curatorial Center at the National Museum of Australia | Lead researcher and curator of <i>Encounters</i> |
| Dr. Margo Neale | Head of the Indigenous Knowledges Curatorial Center at the National Museum of Australia | Organized the “New Encounters” symposium |
| Dr. Michael Pickering | Head of the Research Center at the National Museum of Australia | Previously led the National Museum of Australia repatriation team and lead consultations with Indigenous Australians for <i>Encounters</i> |
| Dr. Maria Nugent | Researcher at the Australian National University | Published academic literature on Captain Cook’s landing in Botany Bay, co-author of <i>Indigenous Australia: Enduring Civilization</i> , the publication which coincided with the exhibition in London with the same name, and co-author of the report on the British Museum’s research on the Gweagal shield done at the request of the La Perouse Land Council |
| Dr. Howard Morphy | Researcher at the Australian National University | Lead researcher for <i>Enduring Civilizations</i> and has worked with Aboriginal Australians for over 40 years |
| Dr. Cressida Fforde | Researcher at the Australian National University | Academic research focuses has focused on the repatriation of human remains with attention to the importance of archival |

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|---------------------|--|--|
| | | research in determining provenance, works closely with Dr. Pickering on two Australian National University funded research projects to build a database of archival data for repatriation purposes |
| Dr. Anna Edmundson | Researcher at the Australian National University | Assisted in the organization of the “New Encounters” symposium |
| Mr. Peter Yu | Yurumu, Indigenous Reference Group Chair | Exhibition consultant, helped to establish and was the first chair of the Indigenous Reference Group at the time of the <i>Encounters</i> exhibition |
| Dr. Shayne Williams | Dharawal elder | Exhibition consultant and has served on the La Perouse Land Council |

Appendix B: Informed Consent Form
University of Denver
Consent Form for Participation in Research

Title of Research Study: Repatriation on an International Scale: The Ambivalence of International Policy on Cultural Property

Researcher(s): Ellyn DeMuynck, Master's Student, University of Denver, Faculty Advisor: Christina Kreps PhD

Study Site: National Museum of Australia

Purpose

You are being asked to participate in a research study. The purpose of this research is to demonstrate one possible way a museum has responded to an international repatriation claim through the implementation of international cultural property policies and continued relationships with both museums and communities with competing interests. This study will use the National Museum of Australia as a case study, specifically focusing on the repatriation claims on the Gweagal shield as a consequence of the Encounters exhibit held at the museum in 2015.

Procedures

If you participate in this research study, you will be invited to take part in a formal semi-structured interview. Questions will be open-ended in nature and will be prepared before the time of the interview. Interviews will be recorded using an audio-recording device. Transcriptions of the interviews will be completed at a later time. Interviews are expected to last at least an hour. A second interview may be requested if it is deemed necessary to go into more detail. Interviews will take place at the National Museum of Australia or at another location of your choosing if being interviewed at your place of employment is uncomfortable. Near the completion of the research project, you will be asked to review the information taken from your interview to be used in the final thesis. At this point, amendments to comments, corrections, or disagreements with the researcher's analysis may be made.

Voluntary Participation

Participating in this research study is completely voluntary. Even if you decide to participate now, you may change your mind and stop at any time. You may choose not to be recorded, answer particular questions, continue with the interview, or be identified for any reason without penalty or other benefits to which you are entitled. During the review stage of the project, you may elect to have responses edited or removed.

Risks or Discomforts

Potential risks and/or discomforts of participation may include discomfort with answer questions about the policies of your place of employment or about the museum's relationship with communities and other museums. This may be seen as a risk to the participant's professional reputation. There is a potential risk for the loss of privacy if opinions of the participant are linked to identifying data.

Benefits

Possible benefits of participation include adding to the body of knowledge on repatriation practices and policies so that both museums and source communities may better navigate the process of cultural property return.

Incentives to participate

Compensation will not be provided for participation in the research.

Confidentiality

Identifiable data will be retained during the study. Your inclusion as a participant is dependent on your experience and expertise on repatriation and/or with the Encounters exhibit at the National Museum of Australia. This expertise provides validity to the research. Therefore, it is necessary to retain your job title/position. As the names of individuals holding specific job titles at NMA are public information accessible through the museum web page, this will make you identifiable. However, requests to remain anonymous will be honored. In such a case, job title will be withheld from publications and presentations. Reference to your contribution will be cited as from a museum employee without further detail. Throughout the study, digital copies of data, including interview transcripts, any coded names, and audio recordings, will be stored on a password protected laptop. All physical copies of notes and transcripts will be stored in either the researcher's home or office which will remain locked when the researcher is not present. The researcher will be the only individual with access to data from this research. Audio recordings, consent forms and communications pertaining to the recruitment process will be retained for three years and then destroyed.

Should any information contained in this study be the subject of a court order or lawful subpoena, the University of Denver might not be able to avoid compliance with the order or subpoena. The research information may be shared with federal agencies or local committees who are responsible for protecting research participants.

Questions

If you have any questions about this project or your participation, please feel free to ask questions now or contact Ellyn DeMuynck at (707)688-1888 or ellyn.demuynck@du.edu at any time. You may contact the faculty advisor for this project, Christina Kreps, at ckreps@du.edu.

If you have any questions or concerns about your research participation or rights as a participant, you may contact the DU Human Research Protections Program by emailing IRBAdmin@du.edu or calling (303) 871-2121 to speak to someone other than the researchers.

Options for Participation

Please initial your choice for the options below:

___ The researchers may audio/video record or photograph me during this study.

___ The researchers may NOT audio/video record or photograph me during this study.

Please take all the time you need to read through this document and decide whether you would like to participate in this research study.

If you agree to participate in this research study, please sign below. You will be given a copy of this form for your records.

Participant Signature

Date